competitiontribunal
SOUTH AFRICA
25
YEARS OF ADJUDICATION
1999 - 2024

25

Years of Adjudication

INTEGRATED ANNUAL REPORT 2024

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Competition Tribunal of South Africa

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CONTENTS

PART A: OVERVIEW

Statement of Responsibility 6
Minister's Foreword 7
Chairperson's Foreword 9

PART B: ABOUT THE TRIBUNAL

Introduction 14
Constitutional Mandate 16
Legislative Mandate 16
Strategic Overview 16
Vision 17
Mission 17
Values 17
Organisational Structure 19
Tribunal Appointments 20
Governance 22
Funding 22

PART C: PERFORMANCE

25 Years in Numbers 26
Highlights for 2023/2024 27
Cases 28
Merger Control 28
Prohibited Practices 33
Notable Procedural Matters 38
Developing/reinforcing case law in less prominent cases 2023/2024 40
25 Years of Adjudication - Timeline 42
Strategic Outcomes 48
Performance - Reliable and Responsive Adjudication 48
Performance - Transparent, Accountable and Sustainable Tribunal 49
Our Financial Performance 55

PART D: GOVERNANCE

Our Oversight Structures 60
Risk Management 61
Report of the Audit and Risk Committee 62
Auditing Our Work, Processes and Procedures 64
Preventing Fraud 65
Maintaining Effective IT Governance in the Tribunal 65
Compliance with Laws and Regulations 67
The Tribunal's Ethical Culture 68

PART E – HUMAN RESOURCE MANAGEMENT

Human Resource Management 72
Employment Equity 73
Remuneration 74
Performance Management 74
Learning and Development 74
Occupational Health and Safety 75
Employee Wellness 75

PART F: ANNUAL FINANCIAL STATEMENTS

Report of the Auditor-General to Parliament on the Competition Tribunal 79
Accounting Authority's Responsibilities and Approval 83
Audited Annual Financial Statements 2023/2024 88

Appendix 1: Large mergers approved with public interest conditions 127
Appendix 2: Consent/settlement agreements 2023/2024 130
Appendix 3: Complaint Referrals 2023/2024 131

LIST OF TABLES AND DIAGRAMS

Diagram 1: High-level illustration of the Tribunal's organisational structure and staff complement
Table 1: Matters heard and decided in the last two financial years
Table 2: Value of large merger transactions decided by the Tribunal
Table 3: Mergers decided in the last two financial years
Table 4: Penalties issued per section of the Act in the last two financial years
Table 5: Penalties issued per sector in the last two financial years
Table 6: Interlocutory/procedural matters in the last two financial years
Table 7: Developing/reinforcing case law in less prominent cases 2023/2024
Table 8: Performance - Reliable and Responsive Adjudication
Table 9: Performance - Transparent, Accountable and Sustainable Tribunal
Table 10: Budget across the Tribunal's strategic objectives
Diagram 2: The Tribunal's oversight structures
Table 11: ARC meeting attendance and remuneration
Table 12: The Tribunal's strategic risks as at 31 March 2024
Table 13: Internal audit team
Table 14: Internal audits 2023/2024
Table 15: Status of all internal audit findings
Table 16: The Tribunal's spend on B-BBEE
Table 17: The Tribunal's race and gender profile

LIST OF ABBREVIATIONS

ACRONYMS	DESCRIPTION
Accounting Authority	The Chairperson of the Tribunal
the Act	Competition Act 89 of 1998
APP	Annual Performance Plan
ARC	Audit and Risk Committee
Auditor-General	Auditor-General, South Africa
B-BBEE	Broad-Based Black Economic Empowerment
CAC	Competition Appeal Court
CFO	Chief Financial Officer
CMS	Case Management System
Commission	The Competition Commission of South Africa
Constitution	The Constitution of the Republic of South Africa, 1996
COO	Chief Operating Officer
COVID-19	Coronavirus disease
DMRE	Department of Mineral Resources and Energy
DPE	Department of Public Enterprises
the dtic	The Department of Trade, Industry and Competition
ESOP	Employee Share Ownership Plan
Executive Authority	The Minister of Trade, Industry and Competition
EXCO	Executive Committee
GRAP	Generally Recognised Accounting Practices
HDPs	Historically Disadvantaged Persons
KRIs	Key Risk Indicators
LPG	Liquefied Petroleum Gas
Minister	The Minister of Trade, Industry and Competition

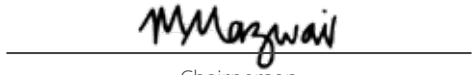
ACRONYMS	DESCRIPTION
NDP	National Development Plan 2030, adopted in 2012
OECD	Organisation for Economic Co-operation and Development
OEMs	Original Equipment Manufacturers
OHS	Occupational Health and Safety
OPCOM	Operations Committee
PFMA	Public Finance Management Act 1 of 1999
PPE	Personal Protective Equipment
RFQs	Request For Quotes
SMMEs	Small, Medium and Micro Enterprises
Tribunal	The Competition Tribunal of South Africa

PART A

Overview

STATEMENT OF RESPONSIBILITY

The Chairperson acknowledges her responsibility in terms of ensuring the integrity of this Integrated Annual Report. In her opinion, this report addresses all of the issues that are material to the Tribunal's ability to create value and presents the integrated performance of the Tribunal fairly. This report was approved by the Chairperson on 31 August 2024.



Chairperson
Mondo Mazwai

MINISTER'S FOREWORD

Parks Tau
Minister: Trade, Industry and Competition

> *Competition policy is part of South Africa's broader economic policy framework and the work of the competition authorities is critical to our country's efforts to advance industrialisation, economic growth, job creation and transformation.*

It is my pleasure to table the Competition Tribunal's 25th Annual Report (and the 11th Integrated Annual Report) for the 2023/2024 financial year, as the institution marks 25 years of adjudication and as South Africa celebrates 30 years of democracy.

This report details the Tribunal's work and activities in the period leading up to the establishment of the Government of National Unity ("GNU") in June 2024.

In his Opening of Parliament Address in July 2024, President Cyril Ramaphosa emphasized the GNU's commitment to placing inclusive economic growth at the forefront of the national agenda. The GNU is dedicated to pursuing sustainable and rapid economic growth while eliminating barriers that impede progress.

South Africa has navigated various phases of industrial policy over the past 30 years. As the seventh administration our primary focus is on industrialisation, re-industrialisation, economic growth, job creation and transformation, in close collaboration with the private sector. We recognize the critical role that the private sector plays in these efforts and are committed to engaging with it to identify crucial areas for accelerating industrial policy and economic transformation.

Transformation is also a cornerstone of our work at **the dtic**, serving both as a means of redress and as a driver of economic growth. **The dtic** is responsible for a range of economy-shaping policies, including those seeking to redress racial imbalances that persist in the business environment and the economy overall.

Additionally, **the dtic** oversees implementation through various agencies comprising technical institutions, financiers, and regulators such as the Tribunal.

The Tribunal is a critical part of the competition regulatory machinery that seeks to address anti-competitive practices that harm consumers, businesses and, ultimately, the economy – and that limit the opportunity for citizens, in particular black South Africans, to participate equitably in the economy.

This report showcases numerous examples of how the Tribunal contributes towards a vibrant, inclusive and competitive economy, one case at a time, in line with the vision of the GNU and within its statutory mandate.

Competition policy is part of South Africa's broader economic policy framework and the work of the competition authorities is critical to our country's efforts to advance industrialisation, economic growth, job creation and transformation.

The Tribunal's key focus is to ensure that markets remain competitive, to remedy market structures which impede participation and economic development, and to protect the public interest during merger applications. I am confident that the Tribunal will remain highly occupied with its workload as we collectively strive to build a better, more competitive and equitable economy.

I wish to thank the Tribunal's Chairperson, Ms Mondo Mazwai, and the Deputy Chairperson, Prof Liberty Mncube for their exceptional leadership, the Tribunal members and the staff of the Tribunal for their hard work, especially in light of the continually increasing workload following the implementation of the amendments to the Competition Act.

Parks Tau
Minister: Trade, Industry and Competition

CHAIRPERSON'S FOREWORD

Mondo Mazwai
Chairperson

"... we remain committed to making decisions that contribute towards transforming the economy for the benefit of all South Africans, through a context-sensitive, transformative and constitutional approach to competition law."

This year is a special year because in this, our 11th Integrated Annual Report, we review not only the past year's achievements and challenges, we also pause to celebrate and reflect on 25 years of competition law adjudication since the Competition Act came into force in 1999.

It is particularly pleasing to observe the Tribunal's contribution to a growing South African economy through adjudication for competitive and inclusive markets.

OUR ADJUDICATIVE WORK

Our core function remains adjudicating mergers and prohibited practices (cartels, vertical restrictive practices and abuse of dominance) in order, *inter alia*, to shield consumers from high prices and low-quality products; to protect employment for workers; to ensure that businesses (both local and international) can vie for markets; and to ensure that SMMEs and HDP firms can participate and compete in markets. In sum, our work strives to balance the interests of consumers, workers, business and various other stakeholders, through the rule of law.

In the reporting period, we heard a total of 150 cases (both merger and prohibited practice cases).

We decided 89 mergers; with 94% of the mergers set down for hearing within the stipulated statutory time periods and 100% of the mergers similarly decided within the legislated timeframes. Of the 89 mergers, we prohibited two on competition grounds, where we found that the remedies proposed by the merger parties did not adequately address the competition concerns identified.

We prohibited the Akzo Nobel/Kansai Plascon transaction, in order to shield consumers from reduced competition and high prices. We found that the merger would result in the removal of a close competitor in the decorative paints market, which would affect low-income consumers. We also found that the proposed remedy of divesting of Micatex, a Plascon brand, would not sufficiently address the loss of competition to Dulux (an Akzo Nobel brand).

In the Sasol/Draslovka merger, we found that the merger would alter the structure of the market and increase prices for sodium cyanide (a key chemical used in gold extraction). This would, in turn, affect the gold mining industry in South Africa, a vital sector for the economy which impacts thousands of jobs.

Public interest issues continue to be an important assessment in our consideration of mergers. Of the 89 mergers, we approved 39 with conditions, 35 of which were public interest conditions. These include employment; a greater spread of ownership by HDPs and SMMEs; localisation; investment commitments; supplier development funding; and HDP development among others. The conditions are tested in public hearings by the Tribunal to ensure that they address the public interest issues identified and are enforceable.

We had a variety of prohibited practice cases in the reporting period, which were at different stages of litigation.

Cartel cases in the reporting period were mostly concluded by way of settlement agreements/consent orders - 21 of the 23 cartel cases were settled. Reasons for a decline in contested cases are speculative and may include factors such as more compliance by firms, the deterrent effect of prior Tribunal decisions, or the characterisation of conduct.

Interim relief is an important tool to address imminent harm to competition and regulate markets, while the Competition Commission still investigates the complaint. We have seen an increase in interim relief applications against allegedly dominant firms in the reporting period. We heard seven interim relief applications compared to two in the previous year.

We protected industrial gas users who were small and medium sized businesses who use natural piped gas in *inter alia* the automotive, glass, brick and steel manufacturing industries against *prima facie* excessive prices by Sasol Gas. The Industrial Gas Users' Association of Southern Africa (IGUA-SA) brought an interim relief application before us following an imminent price increase (from R68.39/GJ to R133.34/GJ) of natural gas by Sasol Gas. We concluded, following a hearing, that the gas users had shown prima facie that the price increase would constitute an excessive price and that the price increase was not economically justifiable. We issued an order interdicting Sasol Gas from increasing the price of piped natural gas above R68.39/GJ for six months or pending the conclusion of the Commission's investigation.

This sample of cases this year illustrates that the work we do touches every sector of the economy and makes a difference in the lives of South Africans. I invite you to page 26 of this report for a snapshot of the journey travelled by the Tribunal over the 25 years.

OUR STAFF, CAPACITY AND PERFORMANCE

We seek to be an Accountable, Sustainable and Transparent entity through good governance practices in the management of our finances, our business processes, and the development and retention of staff.

While the volume and complexity in the cases have increased over time, the Tribunal's resources, particularly our human capital, has remained relatively the same. Since our first Annual Report of 2000/01 (for the seven-month period since the inception of the Tribunal, and ending 31 March 2000) where we issued 14 orders, we have in the current reporting period issued 171 orders. Our staff complement in 2015 when we celebrated our 15-year anniversary was 26 and during the current financial year is 31.

Our limited capacity has not precluded us from meeting our targets and we achieved 79% of our annual performance targets during the reporting period. We can improve this with the requisite capacity. I am delighted to report that we received our eighth consecutive clean audit from the Auditor-General. The report on our performance is detailed from page 62 of this Integrated Annual Report.

OUR FINANCES

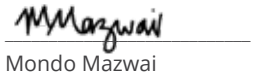
Despite the growth in demand for the Tribunal's services, funding has not increased concomitantly. Year-on-year, since inception our budget allocations have been based on inflationary increases and not in proportion to the Tribunal's increased volume and complexity of cases. In September 2023, our grant allocation for the 2023/24 financial year was reduced by 10% (R4 million). In November 2023, this reduction was further imposed on the Medium-Term Expenditure Framework outer years.

Budget reductions and cost containment measures introduced in the 2023/24 financial year have placed significant pressure on the Tribunal's planned expansion and its ability to perform against its targets.

THE YEARS AHEAD

The celebration of 25 years of competition regulation comes at a time when South Africans took to the polls in our democratic elections resulting in the government of national unity, proving the ability of South Africans to rise up to collaborate to meet the challenges of the day, just as all stakeholders collaborated post-1994, when designing the Competition Act that encompasses efficiency, and equity and distribution goals at the same time. As the Tribunal, we remain committed to making decisions that contribute towards transforming the economy for the benefit of all South Africans, through a context-sensitive, transformative and constitutional approach to competition law.

Our work would not be possible without the dedication of the Tribunal's staff and the devotion of Tribunal members, who have worked tirelessly throughout the year to serve the South African public. Nangomso – please do it again as we approach a new financial year!



Mondo Mazwai
Chairperson: Competition Tribunal
31 August 2024

PART B

About the Tribunal

PART B: ABOUT THE TRIBUNAL

INTRODUCTION

The Tribunal is established by the Competition Act, No. 89 of 1998, as amended, plays an important role in contributing towards promoting and creating competitive and inclusive markets in South Africa.

The Tribunal is one of three independent authorities that fulfils its mandate in terms of section 26 of the Act. These are: the Commission which is the investigative and enforcement authority; the Tribunal which is a specialist adjudicative body; and the CAC which considers appeals or reviews against Tribunal decisions.

In particular, the Tribunal's function is to hear and decide cases referred to it by the Commission or third parties. The Tribunal's decisions have the same legal weight as the judgments of the High Court and may be taken on appeal to the CAC and, if constitutional issues arise, may be taken on appeal to the Constitutional Court.

The Tribunal has jurisdiction in respect of competition matters arising from all economic activity within, or having an effect within, South Africa. When called to adjudicate matters, it functions like a court in balancing the interests of various stakeholders (including government, business, workers and consumers) before it. The Tribunal is enjoined to act independently and impartially in the exercise of its powers i.e. it exercises its functions in accordance with the Act and the Constitution without fear, favour or prejudice.

The Tribunal can, among others:

a. prohibit and approve (with or without conditions) large mergers after considering the Commission's recommendation;
b. prohibit and approve (with or without conditions) small and intermediate mergers decided by the Commission and brought to it for consideration;
c. adjudicate matters in relation to any conduct prohibited in terms of chapters 2 or 3 of the Act;
d. determine appeals arising from market inquiries;
e. consider consent agreements; and
f. grant an order for costs in terms of section 57 of the Act.

Once the Tribunal arrives at a decision, it is required to publish its reasons.

Hierarchy of entities that regulate competition in South Africa

CONSTITUTIONAL COURT OF SOUTH AFRICA

Hears competition matters that raise constitutional issues.

COMPETITION APPEAL COURT

Tribunal decisions can be taken on appeal to the CAC, a special division of the High Court.

COMPETITION TRIBUNAL

Decides large mergers and works like a "court" in the competition system, hearing and deciding mergers and complaints including hearing appeals and reviews. In deciding matters, can issue administrative penalties (fines) and/or impose other remedies.

COMPETITION COMMISSION

Works like a "prosecutor" in the competition system. Investigates mergers and complaints of anticompetitive conduct. Decides small and intermediate mergers and recommends a decision to the Tribunal in large mergers. Investigates and refers complaints to the Tribunal.

In all matters, the Tribunal holds hearings which are open to the public. In most cases, apart from certain procedural cases, three Tribunal members must hear a case and make a decision. Over the years, the Tribunal has invested in and kept abreast of technology which enabled it to seamlessly introduce online or virtual hearings in 2020 during the pandemic and subsequent lockdowns. Less complex matters can now be dealt with more efficiently through online hearings.

LEADERSHIP OF THE TRIBUNAL OVER 25 YEARS

Mondo Mazwai
Current Chairperson
2019 to date

David Lewis
First Chairperson
1999 to 2009

Norman Manoim
Second Chairperson
2009 to 2019

CONSTITUTIONAL MANDATE

The Tribunal's constitutional mandate is contained in section 34 of the Constitution which states that: "***Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum***."

LEGISLATIVE MANDATE

The Tribunal derives its legislative mandate from section 2 of the Act and its purpose is to promote and maintain competition in the Republic in order to:

(a) promote the 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 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 HDPs; and

(g) 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.

STRATEGIC OVERVIEW

Government, through the NDP, has developed a plan to guide government entities' actions and choices required to transform the economy and society.

The dtic has three joint indicators, namely: Transformation, Industrialisation and Building a Capable State, through which it has aligned its objectives to the NDP's transformation goals. The Tribunal has aligned its APP with these objectives, within its statutory mandate.

The Tribunal has two strategic outcomes which are *Reliable and Responsive Adjudication* and *Transparent, Accountable and Sustainable Tribunal*. The Tribunal's core business and, therefore, its strategic focus is adjudicating mergers and prohibited practice cases (cartels and abuse of dominance). It is required to expeditiously decide matters brought before it. In this regard, the Act and the Tribunal Rules prescribe time frames for issuing orders and decisions in mergers which must be adhered to.

Through adjudicating for competitive and inclusive markets, the Tribunal plays a critical role in helping to create conditions that contribute towards sustainable growth and, ultimately, a vibrant South African economy. For example, the Tribunal's decisions on competition and public interest issues in merger control aim to:

- provide consumers with lower prices and high-quality products;
- promote the participation of SMMEs and black-owned firms;
- promote a greater spread of ownership (including by workers, for example, through merger conditions relating to ESOPs); and
- foster competition to promote innovation, productivity and long-term inclusive growth, among others.

The Tribunal's second strategic objective, *Transparent, Accountable and Sustainable Tribunal,* requires the organisation to have effective oversight structures in place to ensure efficient operations, financial and risk management, and reporting.

VISION

The Tribunal's vision is a vibrant, competitive and inclusive economy

MISSION

The Tribunal's mission is impartial and independent adjudication to promote competitive and inclusive markets with opportunities for all

VALUES

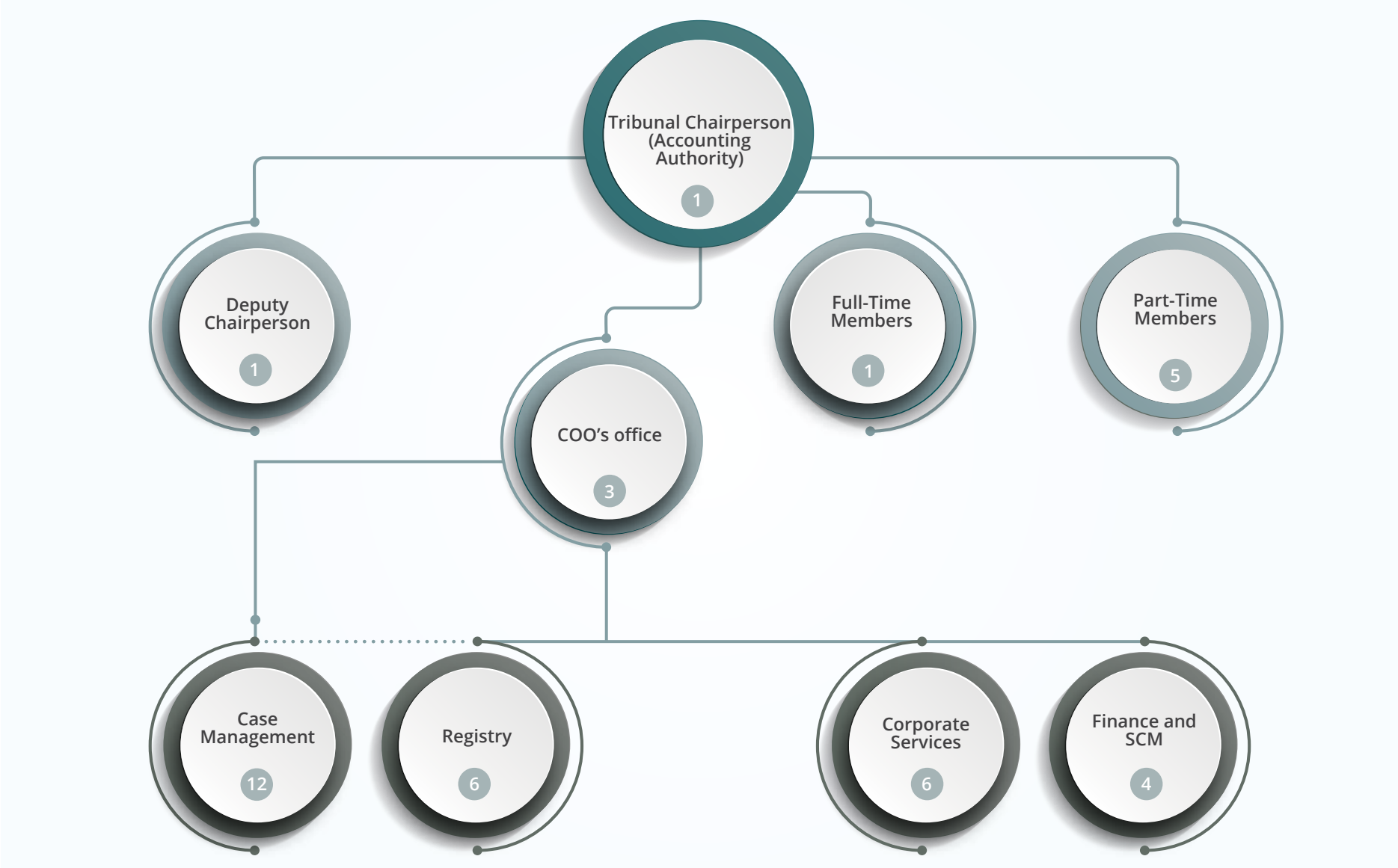
Ubuntu	• Embracing values and practices that support and promote a sense of humanity towards each other in the workplace; • Acknowledging our interdependence on and responsibility towards each other as members of a team; and • Recognising, valuing and supporting each other's unique differences and responsibilities within the organisation.
Professionalism	• Behaving in a manner that brings credibility to the Tribunal and maintaining quality through characteristics such as competence, knowledge, conscientiousness and respect; • Upholding the highest standards in our work, individually and collectively; • Striving for excellence in the work we do; • Displaying the best skills, producing quality work and assisting others in doing the same; and • Ensuring that everyone contributes to the highest level of service to the public and all stakeholders.
Transparency	• Being open and honest about the Tribunal's operations and processes; • Sharing information relating to the Tribunal's performance, finances and internal processes as well as non-confidential information on cases we adjudicate; and • Communicating our actions and decisions clearly.
Accountability	• Accepting responsibility for our conduct towards our stakeholders, including the public, whom we ultimately serve; • Providing accurate reports to all Tribunal accounting structures i.e. **the dtic**, National Treasury, Parliament and the public; and • Maintaining a fair performance management system that encourages growth and accountability.
Integrity	• Maintaining the highest levels of ethical behaviour in all our dealings, internally and externally; and • Making all decisions, administrative and adjudicative, in an ethical manner.
Independence	• Demonstrating the highest levels of independence and objectivity in the performance of our functions; and • Upholding the freedom to make decisions without improper influence.
Impartiality	• Fair, unbiased and non-discriminatory decision-making across all facets of the Tribunal's work; • Applying the law equally and fairly to all parties; and • Consistently applying internal organisational policies to support a quality workforce.
Efficiency	• Always ensuring the most efficient use of our resources e.g. time, finances, etc.; and • Striving for the best possible outcome in the least wasteful manner.

THE TRIBUNAL AT WORK

ORGANISATIONAL STRUCTURE

Total staff numbers: 31 (excluding members)

Diagram 1: High-level illustration of the Tribunal's Organisational Structure and staff complement



TRIBUNAL APPOINTMENTS

Tribunal members are appointed by the President of the Republic, following a recommendation by the Minister. These members are appointed on either a full-time or part-time basis for a five-year term. The Minister can also appoint acting part-time members.

The members are committed to making high quality decisions, based on the criteria stipulated in the Act. While members spend significant amounts of time in hearings, the work of the full-time members extends beyond the courtroom with the balance of their time split between attending to the general management of cases in the pre-trial stages of hearings, preparing for hearings, writing reasons and other management responsibilities such as EXCO and administrative functions such as staff training. The members holding this office in the period under review are as follows:

The total number of Tribunal members as at 31 March 2024 is three full-time and six part-time members.

FULL-TIME MEMBERS

Ms Mondo Mazwai
Chairperson

Appointed
January 2013

Appointed Chairperson
August 2019

Number of years at the Tribunal: 11

Prof. Liberty Mncube
Deputy Chairperson

Appointed
January 2022

Appointed Deputy Chairperson
February 2023

Number of years at the Tribunal: 2

Mr Andre Wessels
Full-time member

Appointed
August 2009

Number of years at the Tribunal: 14

PART-TIME MEMBERS

Prof. Imraan Valodia
Part-time

Appointed
January 2013

Number of years at the Tribunal: 11
Current

Ms Andiswa Ndoni
Part-time

Appointed
August 2009

Number of years at the Tribunal: 14
Current

Prof. Fiona Tregenna
Part-time

Appointed
August 2014

Number of years at the Tribunal: 10
Term expired: 31 March 2024

Dr Thando Vilakazi
Part-time

Appointed
August 2019

Number of years at the Tribunal: 4
Current

Ms Sha'ista Goga
Acting part-time

Appointed
January 2022-January 2024

Number of years at the Tribunal: 2
Term expired: 31 January 2024

Adv. Geoff Budlender SC
Acting part-time

Appointed
January 2023

Number of years at the Tribunal: 1
Current

Adv. Jerome Wilson SC
Acting part-time

Appointed
February 2023 - July 2023

Number of months at the Tribunal: 6 months
Term expired: 31 July 2023

Adv. Tembeka Ngcukaitobi SC
Acting part-time

Appointed
April 2023 - September 2023

Number of months at the Tribunal: 6 months
Term expired: 30 September 2023

Ms Anisa Kessery
Acting part-time

Appointed
January 2024

Number of Months at the Tribunal: 3 Months
Current

The Tribunal members are supported both logistically and operationally in their work by full-time employees who are referred to as the Secretariat. The Secretariat differs in function from the members as they do not decide cases. The Secretariat is headed by the COO and comprises four divisions, namely: Case Management; Finance; Registry; and Corporate Services. The Divisional Heads and the COO constitute the OPCOM which assists the Chairperson in her role as the Accounting Authority. The OPCOM has oversight responsibilities for all operational functions and is required to ensure good governance.

GOVERNANCE

The Chairperson is the Accounting Authority of the Tribunal. The Chairperson, full time members, the COO and CFO constitute the Tribunal's EXCO, whose function is to assist the Chairperson in providing organisational direction and oversight as well as contributing towards strategic decisions that shape the direction and operations of the Tribunal.

FUNDING

The work of the Tribunal is financed through National Treasury and **the dtic** approved grant funding as well as from filing fee revenue administered by the Commission, in terms of a memorandum of agreement between the Tribunal and the Commission.

OUR CASE MANAGEMENT TEAM

PART C

Performance

PART C: PERFORMANCE

Years in numbers

- 3027 cases heard and 3019 cases decided between 1999-2024
- 1915 mergers decided
- 16 mergers prohibited
- 154 contested prohibited practice matters heard
- Largest penalty ever imposed was R 1 500 000 000 in the CCSA v ArcelorMittal SA matter
- Total penalties imposed is R 8 805 927 688

HIGHLIGHTS FOR 2023/24

NUMBERS

- **150 cases heard** (25% decrease compared to 199 in the previous year)
- **171 orders issued** (4% increase compared to 165 in the previous year)
- **141 reasons issued** (21% increase compared to 117 in the previous year)
- **23 cartel cases decided** (incl. two contested matters and 21 consent/settlement agreements)

MERGERS

- **89 mergers** decided, **39 approved** with conditions (35 of these with public interest conditions)
- **2 mergers** were prohibited, compared to one in the previous financial year
- Total transaction value for mergers was **R12 060 099 808 428**

PENALTIES

- Total amount for penalties imposed was **R117 818 203**
- **96%** of penalties imposed was for cartel conduct, up from last year's **50%**
- The highest penalty was imposed on Standard Chartered Bank (**R42 715 880**) for the manipulation of the USD/ZAR currency pair between 2007 and 2013

CASES

The Tribunal's electronic CMS stores a large amount of data and enables us to: (i) monitor the progress of the adjudicative process; and (ii) extract statistics as reflected in this section of the report, thereby providing an accurate picture of our performance as well as interesting statistics pertaining to the entire adjudicative process. Table 1 provides an overview of matters heard and decided by the Tribunal (and the reasons for the decisions) in the last two financial years.

The number of cases fluctuate year-on-year. Fewer cases heard overall does not, however, translate into less work. By their nature, small/intermediate merger considerations are contested and therefore more complex. Similarly, interim relief applications are complex and contested as jurisprudence under the amendments evolves. Hearings, on their own, involve scrutinising large volumes of documentation and require intensive preparation, proceeded by lengthy amounts of time in the courtroom. The assessment of the cases cannot be measured quantitatively (in numbers) but require a qualitative assessment.

Table 1: Matters heard and decided in the last two financial years

Year	2022/2023	2023/2024	2022/2023	2023/2024	2022/2023	2023/2024
Case Type	Number heard		Orders issued		Reasons issued	
Large Mergers	99	87	98	84	86	91
Small/ Intermediate Mergers	1	5	1	5	0	2
Complaints from the Commission	4	1	2	3	2	3
Consent Orders/ Settlement Agreements	19	22	15	23	0	2
Complaints from Complainant/ High Court	1	0	0	1	0	1
Interim Relief*	2	7	2	5	3	3
Interlocutory/ Procedural Matters*	73	28	47	50	26	39
Totals	**199**	**150**	**165**	**171**	**117**	**141**

**Not all procedural / interlocutory matters require reasons to be issued.*

MERGER CONTROL

Mergers are the lifeblood of an economy and a source of growth and investment. However, mergers can alter the structure of markets. The Act prohibits mergers which are likely to have a net effect of substantially preventing or lessening competition or which cannot be justified on public interest factors. The Act also lists five factors that the Tribunal must take into consideration in determining whether a merger can or cannot be justified on substantial public interest grounds.

Mergers are classified into small, intermediate and large by reference to the merging firms' asset or turnover values. With all small and intermediate mergers, the Commission assesses and decides the outcome. It can approve outright, approve with conditions or prohibit. The Tribunal hears and decides appeals and reviews of the Commission's decision to prohibit or conditionally approve small or intermediate mergers. With regard to large mergers, the Commission assesses and recommends an outcome to the Tribunal. The Tribunal then assesses the merger and decides the outcome. It can approve with or without conditions or prohibit the merger following a hearing.

In the assessment of mergers, the Tribunal must consider the impact of the proposed transaction on competition as well as public interest grounds. These are the effect of the merger on a particular industrial sector or region; employment; the ability of small and medium-sized businesses and firms owned or controlled by HDPs to "effectively enter into, participate in or expand within the market"; and the ability of national industries to compete in international markets. In line with the 2018 amendments to the Act, the Tribunal must also consider shareholding by HDPs i.e. "the promotion of a greater spread of ownership, in particular to increase the levels of ownership of historically disadvantaged persons and workers in firms in the market".

In weighing up competition and public interest factors, the Tribunal, in practice, conducts a complete competition analysis (which includes balancing competition harm with efficiencies) followed by a public interest analysis, in order to determine the net effect of the transaction.

During the reporting period, the Tribunal decided 89 mergers. It imposed conditions in 39 mergers, 35 of which were with public interest conditions.

MERGERS BY NUMBERS

Table 2 provides an overview of the value of large merger transactions decided by the Tribunal over the last two financial years. The figures provide a measure of the economic value of the large mergers being considered by the Tribunal.

Table 2: Value of large merger transactions decided by the Tribunal

	2022/2023	2023/2024
Total combined turnover	R5 414 716 121 759	R 3 802 318 046 491
Minimum combined turnover	R62 477 334	R 150 294 892
Maximum combined turnover	R250 278 209 510	R 337 977 059 095
Average combined turnover	R55 252 205 324	R 45 265 691 030
Total transaction value	R4 063 606 305 025	R 12 060 099 808 428
Number of mergers decided	99	89

Table 3: Mergers decided in the last two financial years

	2022/2023	%	2023/2024	%
Approved without conditions	61	62%	48	54%
Approved with conditions	37	37%	39	44%
Prohibited	1	1%	2	2%
Total	**99**	**100%**	**89**	**100%**

Highlights of merger cases

During the year under review, the Tribunal prohibited two mergers compared to one in the previous financial year. We highlight these two below and explain why the Tribunal prohibited its practices.

Akzo Nobel N.V and Kansai Plascon Africa Ltd and Kansai Plascon East Africa (Pty) Ltd

The Tribunal prohibited the intermediate merger wherein the Dutch owner of Dulux paint wanted to buy the owner of its local rival, Plascon, in South Africa. The proposed transaction was between Akzo Nobel and Japanese-owned Kansai Plascon's African and East African businesses. In this merger the Tribunal shielded consumers from reduced competition and, ultimately, higher prices.

AkzoNobel is a Dutch multinational group that manufactures and sells decorative and industrial (performance) coatings for consumer and industrial use. In South Africa, KPAL manufactures decorative coatings and industrial coatings. It also manufactures colourants which are substances used to add colour to, or change the colour of, a factory-produced base paint utilizing paint tinting equipment.

The proposed merger was initially prohibited by the Commission as it found that the transaction would likely result in a substantial prevention or lessening of competition in the market for the manufacture and supply of decorative coatings. According to the Commission, the merger would combine the largest and second-largest manufacturers of decorative coatings, that is, the Dulux and Plascon brands manufactured by AkzoNobel and KPAL, respectively.

The merging parties then approached the Tribunal with a request for consideration, seeking an order that the merger be approved subject to a proposed divestiture of KPAL's Micatex brand (a sub-brand of the Plascon brand), a supply commitment relating to colourants and other public interest related commitments.

The Tribunal heard evidence over ten days from factual and economic expert witnesses, including evidence on the Commission's market testing report on the proposed divestiture.

After considering of all the evidence presented to it, the Tribunal prohibited the proposed merger as it concluded that it would likely give rise to significant unilateral effects i.e. the removal of a close and effective competitor in the relevant market. The Tribunal also concluded that the Micatex remedy does not sufficiently address the anti-competitive unilateral effects of the proposed merger. In addition, the anti-competitive effects of the proposed merger were not outweighed by any efficiency gains or public interest benefits.

Tribunal blocks Dulux and Plascon merger

Draslovka Holdings A.S and the Sodium Cyanide Business of Sasol South Africa Limited

In one of the most notable and most publicised transactions in the 2023/2024 financial year, the Tribunal prohibited the intermediate merger involving the sale of Sasol South Africa Limited's (Sasol) sodium cyanide business to a Czech Republic-based sodium cyanide producer, Draslovka Holding A.S., through its local subsidiary, Draslovka (South Africa) (Pty) Ltd (Draslovka). In this merger the Tribunal protected South Africa's gold mining sector from high prices.

Sodium cyanide, a chemical compound commonly used in the extraction of precious metals such as gold and silver, is an important input for gold mining firms operating in South Africa. The merger would have resulted in Sasol supplying certain key inputs required in the production of sodium cyanide to Draslovka. According to the Commission, Sasol has a monopoly position in the production of liquid cyanide in South Africa and the gold mining sector is dependent on Sasol for the supply of liquid cyanide.

The Commission prohibited the merger on grounds that it would likely result in post-merger price increases which would be detrimental to Sasol's customers in the gold mining sector, among others. The Commission also found that the proposed merger would have a substantial negative effect on the public interest given its effects on the South African gold mining sector. The merging parties thereafter filed an application for consideration with the Tribunal based on several grounds, including that the Commission had not considered the significant efficiencies and public interest benefits arising as a result of the proposed transaction.

Gold mining firms Sibanye Stillwater Limited (and its subsidiary, DRD Gold Limited), Pan African Resources PLC and Harmony Gold Mining Company Limited were granted leave to participate in the Tribunal proceedings, following their respective applications for intervention. Ultimately, only Sibanye Stillwater Limited and its subsidiary DRD Gold Limited intervened in the proceedings. The Tribunal called on Pan African Resources PLC and Harmony Gold Mining Company Limited to make submissions and answer questions to explain the reasons for their revised stance on the proposed merger.

During the eight day merger hearing, the Tribunal heard oral evidence from the merging parties, the Commission, the intervenors, as well as factual and economic expert evidence. The Tribunal afforded the parties a further opportunity to engage with each other on the conditions tendered by Draslovka after the hearing, to determine whether mutually acceptable conditions could be identified. However, those engagements were not successful.

While the merger would not increase concentration in the market for liquid sodium cyanide, as Sasol already has a monopoly position, the Tribunal found that the merger would change the structure of the market that would have implications for sodium cyanide pricing, affecting the gold mining industry in South Africa. In addition, the Tribunal concluded that the conditions proposed by Draslovka *inter alia* did not adequately address the pricing effect that would arise from the proposed merger. After considering all of the evidence and submissions, the Tribunal prohibited the merger.

In its reasons, the Tribunal noted that the South African gold mining sector is a highly significant part of the South African economy, and responsible for the employment of thousands of people.

Tribunal scrutinises Sasol's sodium cyanide asset deal

Mergers approved with conditions

During the year under review, the Tribunal approved 89 mergers, 39 with conditions. Of these 39, 35 were approved subject to conditions relating to public interest issues.

The following are two examples of how public interest considerations in the healthcare and agriculture priority sectors were advanced through mergers adjudicated by the Tribunal during the reporting period:

Life Healthcare Group (Pty) Ltd and The Dialysis Services Business of Fresenius Medical Care South Africa (Pty) Ltd

Life Healthcare, a private hospital operator with a substantial network of acute care hospitals across South Africa, intended to acquire the dialysis services business of Fresenius Medical Care. This acquisition could extend Life Healthcare's reach in providing both acute and chronic dialysis treatments.

The merger raised several competition concerns. The first competition concern was that the merger would lead to the foreclosure of non-integrated or independent dialysis service providers who are reliant on the multi-disciplinary acute private hospital for referrals, as Life Healthcare could potentially prioritize its own dialysis services within its hospitals. Accordingly, by acquiring Fresenius Medical Care, Life Healthcare may be able to progress this strategy, and such a strategy will significantly impact and undermine the sustainability of independent dialysis service providers. The second competition concern was that post-merger, Life Healthcare would increase the cost (through raising tariffs) of dialysis treatments for uninsured or self-paying patients in geographic areas where the merging parties will have high market shares.

To address the foreclosure concern, the Tribunal approved the merger subject to a condition that the merger parties shall continue to permit non-integrated or independent dialysis service providers reasonable access to Fresenius Medical Care's hospitals on a mobile basis for a specified period for the purposes of administering acute renal dialysis treatments.

To remedy a competition concern that will Life Healthcare will be able to raise tariffs charged by Fresenius Medical Care post merger for uninsured or self-paying customers (those who do not have medical aid), the Tribunal approved the merger subject to a condition that Life Healthcare will ensure that for a specified period it shall maintain the lowest tariffs between Life Healthcare and Fresenius Medical Care tariffs for self-paying customers.

To address public interest concerns, the Tribunal imposed a condition that Fresenius Medical Care shall not retrench any employees as a result of the merger for the duration of the moratorium period (36 months). After considering the effect of the merger on a particular industry or sector the Tribunal imposed a condition that Life Healthcare shall offer the relevant provincial health departments in each province in which the Merged Entity provides dialysis services an agreed-upon number of chronic haemodialysis treatments for public sector patients. In addition, Life Healthcare also committed to a capital expenditure on Fresenius Medical Care of a specified amount over a specified duration.

3 Sisters (Pty) Ltd and Capespan Group (Pty) Ltd

3 Sisters, an investment company with interests in various agricultural sectors, sought to acquire Capespan, a major fruit producer with global marketing capabilities.

In assessing the effect of the merger on the promotion of greater spread of ownership by historically disadvantaged persons, the Commission found that 3 Sisters does not have any shareholding held by HDPs. Thus, the proposed merger would have resulted in a dilution of shareholding held by HDPs in Capespan. To remedy this concern, the Tribunal approved the merger subject to a condition that 3 Sisters will within 24 months of the Implementation Date, conclude a HDP Transaction.

In relation to request to commit to specific initiatives that further promote B-BBEE in its supply chain and support for HDPs, the merger parties submitted that they were amenable to commit to further build on and enhance the social and empowerment projects that Capespan was already involved in and to increase participation of HDPs. In this regard, the Tribunal approved the merger subject to the following commitments agreed to by the merging parties: (i) Market Access – Emerging Farmer Development Commitment; (ii) HDP skill development; (iii) social development; and (iv) capex.

As far as the market access condition is concerned, the merging parties commits to, on an annual basis for the next 2 (two) financial years commencing 1 July 2024 that Capespan shall provide Capespan's South African based export and marketing services to at least a number of Emerging HDP-owned Farmers at Capespan's costs.

On the HDP skill and development condition, 3 Sisters shall ensure that Capespan, on an annual basis for Capespan's next 2 (two) financial years commencing 1 July 2024, fund at least 2 (two) additional training positions at Capespan for suitable HDP candidates who are not, at the time of the offer for training, employed by Capespan.

On the social development condition 3 Sisters shall ensure that Capespan, during Capespan's next 2 (two) financial years commencing 1 July 2024, spend a specified amount over the period in the form of social development initiatives across the communities where Capespan is active.

On the Capital expenditure condition, 3 Sisters shall ensure that Capespan over the next 2 (two) financial years commencing on 1 July 2024 incur in aggregate no less than a specified amount in replacement capital expenditure on Capespan's South African operations.

Takatso Aviation (Pty) Ltd and South African Airways SOC Ltd

The Tribunal gave Takatso Aviation the green light to acquire a 51% interest in South African Airways (SAA) from the government. Post-merger, SAA would be jointly controlled by Takatso (51%) and the Department of Public Enterprises (DPE) which would retain a 49% interest in SAA.

The Tribunal's approval followed a hearing during which various stakeholders and interested parties made submissions and aired concerns about job losses (fiscal transparency). The approval was subject to a divestiture of shareholding by the minority shareholders in the Takatso consortium, Global Aviation and Syranix, and a five year moratorium on retrenchments.

On competition concerns, the Tribunal probed whether the divestiture remedy was appropriate to address concerns of information sharing arising from cross-directorships. The Tribunal concluded, given that the domestic airline services markets were highly concentrated, that divestiture would be the most appropriate remedy. The divestiture by the minority shareholders (Global Aviation and Syranix) would be to independent third party/ies unrelated to them and not competing with them so as to introduce new competition.

On employment, various unions and SAA cabin crew employee representatives raised concerns regarding job security post-merger. The Commission had recommended a five-year moratorium on any merger-related job losses as well as a condition requiring a minimum headcount of 1100 employees at SAA for the moratorium period.

During the hearing, the Tribunal established that the correct number for the minimum headcount (as at the hearing date) was 1647. The Tribunal accordingly increased the aggregate minimum number of permanent SAA employees to 1647 from 1100. In addition, the Tribunal imposed a condition that, for 24 months post-merger, SAA employees retrenched during business rescue proceedings would receive first preference when applying for any vacancies at SAA, provided they have the requisite qualifications, skills, know-how and experience.

Competition watchdog approves SAA, Takatso deal - but bars minority shareholders, retrenchments

Compiled by Karl Gernetzky

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The Competition Tribunal has approved Takatso Aviation's proposed acquisition of a 51% stake in South African Airways, but has given conditions - including a moratorium on retrenchments as well as a sale of the stake held by minority shareholders.

PROHIBITED PRACTICES

The Tribunal adjudicates and decides prohibited practices (cartels, vertical restrictive practices and abuse of dominance) on referral to it by the Commission or third parties in case of a non-referral by the Commission.

Prohibited practice cases are generally fewer and slower than mergers for various reasons, *inter alia,* that the proceedings are adversarial in nature, and the stakes are high in that a finding of a contravention would lead to a substantial administrative fine; the parties therefore have less of an incentive to cooperate. To a large extent the speed at which restrictive practice cases are heard is dependent on the parties' litigation strategies and the ripeness of the matter to be heard. In some instances interlocutory proceedings (such as discovery dispute, access to the record, confidentiality claims, jurisdiction points) delay the hearing of the matters.

Cartels

During the reporting period, the Tribunal decided 23 cartel cases. 21 of the 23 cartel cases were settled.

The following is an example of an alleged cartel case dismissed by the Tribunal during the reporting period:

CC and Totalgaz and 4 Others

The Tribunal dismissed a case of alleged price fixing against five LPG firms who were accused by the Commission of having contravened section 4(1)(b)(i) of the Act, by fixing the deposit fee charged to first time purchasers of LPG in cylinders in 2015. The alleged agreement resulted in the firms simultaneously increasing the deposit fee paid by first time buyers for cylinders around June 2015, to R300 for cylinders.

In its complaint the Commission alleged that during the South African Petroleum Industry Association ("SAPIA") meetings the Respondents concluded an agreement to increase the deposit fees on LPG cylinders for first time buyers, in contravention of section 4(1)(b)(i). The meetings occurred in the first half of 2015, and the alleged price fixing agreements were alleged to have been implemented during the first week of June 2015. The alleged agreement resulted in the Respondents simultaneously increasing the deposit fee paid for cylinders during or around June 2015 from R150 to R300 for cylinders ranging in sizes of 9kg - 48k. The respondents argued firstly, that the decision to adopt the same increase in the cylinder deposit fee was not due to them being competitors but, rather, due to the "vertical relationship" between them i.e., the relationship between a firm and its suppliers, its customers or both, as participants in the Cylinder Exchange Program ("CEP"), established by industry. Therefore, they were not horizontal competitors in the supply of LPG cylinders as required by section 4(1)(b)(i).

Secondly, they argued that even if the Tribunal found that the LPG firms were competitors in the supply of cylinders, the CEP delivered benefits to consumers (as they can exchange the cylinder anywhere rather than where they purchased it) and/or new/smaller entrants to the market and was not designed to restrict competition in the sale of LPG. The respondents argued that the CEP facilitated the increased sale of LPG by a rapid return of cylinders to each wholesaler and necessitated a uniform deposit fee for its smooth functioning. They further argued that this was not the type of conduct that, properly characterised, is contemplated within the scope of section 4(1)(b) of the Act which prohibits hard core cartels.

Following a hearing and after considering factual and expert evidence, the Tribunal found that the cylinder exchange programme between various LPG suppliers in South Africa held certain benefits from *inter alia* a consumer perspective and that the conduct which the LPG firms were accused of could not be associated with a "hardcore cartel", which is what section 4(1)(b) of the Act is aimed at. The Tribunal found that when assumed that the LPG firms were competitors in a horizontal relationship in the supply of cylinders, their conduct was not the type of conduct envisaged to be prohibited by section 4(1)(b)(i) of the Act. The Tribunal found that this type of conduct could fall within the ambit of section 4(1)(a) of the Act. However, this was not the case mounted by the Commission.

Abuse of dominance

Abuse of dominance cases take longer to prosecute and decide due to *inter alia*, to the complexity of the legal and economical issues they raise.

There has been a notable rise in abuse of dominance cases involving applications for interim relief. Interim relief is a procedure to temporarily protect and maintain competition pending the conclusion of a hearing into the alleged restrictive practice. It is decided on the basis of evidence before the Tribunal without the benefit of a full investigation and oral evidence.

We heard seven interim relief applications in the reporting period. From a policy perspective, interim relief plays a crucial role in addressing immediate competitive harm, perspective markets during investigations and enhancing the overall effectiveness of competition law. Below, we highlight two of the interim relief applications adjudicated by the Tribunal during the period under review.

The following are examples of interim relief applications heard by the Tribunal during the reporting period. In these matters the tribunal protected Industrial Gas users from high prices of piped natural gas (in Sasol Gas); and also ensured that consumers benefit from an alternative payment system to visa (in Depansum).

Industrial Gas Users' Association of Southern Africa And Sasol Gas (Pty) Ltd; The National Energy Regulator of South Africa; and Competition Commission of South Africa

The Tribunal granted an interim relief application brought by the Industrial Gas Users' Association of Southern Africa (IGUA-SA), interdicting Sasol Gas from increasing the price of piped natural gas above R68.39/GJ for six months. Natural gas is an essential input for IGUA-SA's members which include large industrial users of gas in South Africa. In this case the Tribunal protected the interests of industrial, commercial and domestic customers of natural gas.

In August 2022, Sasol Gas notified its customers that it intended to increase its price for natural gas to R133.34/GJ from R68.39/GJ. Following an outcry by customers, Sasol elected not to implement a price increase pending further discussions with the sector regulator, the National Energy Regulator of South Africa (NERSA). IGUA-SA then lodged a complaint with the Commission, alleging that Sasol was abusing its dominant position in the market by charging an excessive price for gas to the detriment of consumers and customers. IGUA-SA thereafter approached the Tribunal for interim relief to interdict Sasol from increasing its current price of R68.00/GJ for six months or pending the conclusion of the Commission's investigation into its excessive pricing complaint against Sasol.

In proceedings before the Tribunal, Sasol Gas challenged the competition authorities' jurisdiction to hear the application, arguing that its pricing fell within the maximum price determined by NERSA. It was therefore beyond the power of the competition authorities to determine whether Sasol Gas had engaged in excessive pricing. On this point, the Tribunal concluded that the Competition Act and the Gas Act create a system of concurrent jurisdiction. The Tribunal proceeded to determine whether IGUA-SA had established a basis for interim relief.

The Tribunal concluded that IGUA-SA had shown a *prima facie* right not to be subjected to an excessive price. Further, that it had demonstrated that IGUA-SA members reasonably apprehend that Sasol would increase the price and that the increase was likely to be to a level which would cause them serious or irreparable damage. On the balance of convenience, the Tribunal found that where a complaint is of excessive pricing, the consequence of the alleged prohibited practice was likely not experienced only by the litigants but, in this instance, by the public who use gas. As such, that the balance of convenience favoured the granting of interim relief.

The Tribunal therefore effectively placed a moratorium on Sasol Gas' increase on the price of natural gas for a period of six months or pending the conclusion of the Commission's investigation (whichever occurs first). Within the six-month period, Sasol Gas may not increase its natural gas price above R68.39/GJ, unless it first gives IGUA-SA at least two months' written notice of its intention to do so. Such notice must specify the price which Sasol Gas intends to charge its customers, whether that price has been approved by NERSA and, if so, when it was approved.

Depansum (Pty) Ltd t/a dLocal and VISA Inc; VISA Sub-Saharan Africa (Pty) Ltd; Nedbank Ltd; the Competition Commission; and VISA International Service Association

In another interim relief matter, the Tribunal heard an application by Depansum against Visa Inc. and Visa Sub-Saharan Africa. Depansum provides e-commerce payment processing solutions in South Africa for overseas merchants such as Microsoft, Shein and Amazon. It alleged that Visa and Visa SA established rules that are treated as a binding contract between Visa and its members (including banks) and that Visa enforces these rules to prohibit banks (in this case, Nedbank) from using Depansum's payment system. Depansum alleged that this conduct is an abuse of dominance and contravened the Competition Act.

Depansum describes itself as a financial intermediary (local collection agent or "LCA"), authorised in terms of the National Payment Systems Act, that facilitates payments on behalf of international e-commerce companies (merchants) and consumers in emerging economies like South Africa. According to Depansum, its services allow transactions between local consumers (e.g. consumers in South Africa) and international merchants to be processed locally by facilitating payments (via credit or debit card) locally. These transactions are routed through a local entity (itself in South Africa), acting as a collecting agent and assuming responsibility for the transfer of the funds to the international merchant for which it acts as an agent.

Visa disputed the allegations and opposed Depansum's interim relief application. Among others, it alleged that Depansum's LCA activities (for foreign merchants) in South Africa contravene South Africa's exchange control laws. Visa argued that it was not prepared to permit its payment network to be associated with unlawful conduct. In addition, Visa argued that Depansum failed to demonstrate that Visa's enforcement of its rules is anti-competitive or that it had any anti-competitive effects.

Section 8(1)(d)(i) of the Act prohibits a dominant firm from requiring or inducing a supplier or customer not to deal with a competitor unless the dominant firm can show that technological, efficiency or other pro-competitive gains outweigh the anti-competitive effects of the conduct. The Tribunal found that, *prima facie*, Visa is dominant in the South African payment network services market and that its conduct *prima facie* seeks to induce Nedbank not to deal with Depansum.

On irreparable harm, the Tribunal found that Depansum demonstrated that a portion of its business was in jeopardy if Visa continued with its conduct - and that its competitive position would be severely compromised should this materialise. This outweighed Visa's speculative concerns about the safety of Depansum's payment network. The Tribunal also found that there was *prima facie* consumer harm in this case and concluded that the balance of convenience favoured Depansum.

On the exchange control issues, the Tribunal concluded that Visa had not presented clear evidence that the LCA model is in breach of the exchange control regulations. Under the circumstances, the Tribunal concluded that it was not appropriate for it to attempt to determine the disputed exchange control issues between the parties.

The Tribunal's interim order interdicted Visa from prohibiting Nedbank from processing transactions for Depansum as its acquiring bank. The Tribunal's order also prohibited Visa from fining Nedbank or terminating its card network services to Nedbank. The interim relief was valid for six months or the conclusion of a hearing into the complaint filed by the applicants, whichever is the earlier. The Tribunal subsequently granted an order extending the interim relief by a further six months.

Watchdog says Visa cannot bar Nedbank from processing rival's payments

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NEDBANK

- Depansum, a provider of e-commerce payment processing solutions for offshore merchants, accuses Visa of violating the Competition Act by prohibiting Nedbank from processing transactions using its systems.
- Visa disputes this and claims Depansum's local collecting agent activities for foreign merchants in South Africa contravene local exchange control laws while arguing that enforcing its rules is not anti-competitive.
- The Competition Tribunal has granted Depansum interim relief for six months, saying Visa can't prohibit Nedbank from using Depansum's systems by threatening to terminate its card network services to the bank.

Consent orders/settlement agreements

The Tribunal confirmed 23 consent/settlement agreements during the reporting period. The following are examples of consent/settlement agreements confirmed as orders of the Tribunal, in the banking, furniture removal and edible oils industry which has an impact on consumers on a daily basis.

CC and Standard Chartered Bank

The Tribunal confirmed a settlement agreement wherein the multinational bank, Standard Chartered Bank (SCB) agreed to pay a penalty of R42 715 880 after admitting liability in regard to the manipulation of the USD/ZAR currency pair. SCB is one of 28 banks accused of manipulating the USD/ZAR currency pair. The settlement agreement was confirmed as an order of the Tribunal following a hearing during which the Tribunal heard and considered submissions and sought clarity on various clauses contained in the settlement agreement.

The Commission alleged that between 2007 and 2013, various banks fixed prices of bids, offers and bid-offer spreads in relation to spot trades of ZAR currency pairs through bilateral and multilateral communications using instant messaging platforms and other means of communication. In addition, that the banks assisted each other through allowing a trader with a large open risk position to complete their trades first before trading and through holding and/or pulling their trades to reverse liquidity for each other instead of trading normally in the market. This conduct amounts to price fixing and market allocation in contravention of Section 4(1)(b)(i) and (ii) of the Act. SCB confirmed that it is no longer involved in the currency manipulation and agreed to fully cooperate in relation to the prosecution of this matter. The Tribunal's confirmation of the settlement agreement ends the litigation between the Commission and SCB.

CC and Stuttaford Van Lines (Pty) Ltd;
CC and Pickfords Removals (Pty) Ltd; and
CC and AGS Frasers International

Furniture removal companies, Stuttafords and Pickfords admitted to involvement in a furniture removal cartel and agreed to pay a penalty totalling R40 million. This formed part of the terms of a settlement agreement confirmed by the Tribunal, following a hearing during which it heard submissions on various aspects of the settlement agreement. The settlement agreement concluded all complaints, investigations and prosecutions relating to Stuttafords and Pickfords. The collusion, which is alleged to have occurred from 2007 to at least 2012, involved the exchange of cover prices/quotes. Stuttafords was charged with 649 instances of collusive tendering involving the exchange of cover quotes, Pickfords with 37 and AGS with three. The Commission agreed (as part of the settlement) to withdraw the complaint referral against AGS.

The case follows an exception application raised by Pickfords in terms of section 67(1) of the Competition Act at the Tribunal where it alleged that the Commission cannot initiate a complaint more than three years after the alleged prohibited practice ceased. In its determination of this preliminary point the Tribunal found in favour of Pickfords. The Commission appealed this decision to the Competition Appeal Court which dismissed the Commission's appeal. The Commission appealed the Competition Appeal Court's decision to the Constitutional Court which dismissed the Pickfords exception.

CC and Unilever South Africa (Pty) Ltd

The Tribunal confirmed a settlement agreement in terms of which the fast-moving consumer goods firm, Unilever South Africa, agreed to pay a R16 million penalty. Unilever and Sime Darby Hudson Knight were accused by the Commission of contravening section 4(1)(b)(ii) of the Act by engaging in market division in the edible fats and oils industry in SA between 2004 and about 2012. The Commission alleged Unilever and Sime Darby concluded agreements in terms of which Sime Darby was precluded from supplying products of a particular classification, pack size and format to specific customer channels.

The Commission and Sime Darby settled in 2016. Although Unilever defended the allegations levelled against, it ultimately negotiated the settlement with the Commission. The Tribunal's confirmation of the settlement agreement followed a hearing during which it exercised its inquisitorial powers to interrogate the terms of the agreement and heard submissions from the parties. Unilever agreed to pay the penalty and committed to other remedies including enterprise and supplier development, local procurement and donating hygiene products to schools.

Table 4 shows that 96% of penalties imposed by the Tribunal during the reporting period were for cartel conduct. This indicates a 46% increase when compared to the previous reporting period.

Table 4: Penalties issued per section of the Act in the last two financial years

		2022/2023			2023/2024		
	Sections of the Act	**Number of penalties**	**Amount**	**%**	**Number of penalties**	**Amount**	**%**
1.	Restrictive horizontal practices Sections 4(1) (b)(i), (ii) and (iii)	13	R20 197 652	50%	14	R113 607 052	96%
2.	Abuse of dominance Sections 8(1) (a), 8(c), 8(d)(i) and 8(d)(iii)	2	R14 758 689	36%	1	R3 550 000	3%
3.	Failure to notify - Section 13A(3)	3	R5 485 000	14%	0	0	0
4.	Section 5(1)		R0	0%	0	0	0
5.	Resale price maintenance - Section 5(2)		R0	0%	1	R661 151	1%
	TOTAL	**18**	**R40 441 341**	**100%**	**16**	**R117 818 203**	**100%**

Table 5 shows that the highest percentage of penalties (36%) was imposed on firms in the financial and insurance sector.

Table 5: Penalties issued per sector in the last two financial years

	Sector	**2022/2023**	**%**	**2023/2024**	**%**
1.	Manufacturing	R0	0%	R23 688 222	20%
2.	Wholesale and retail trade	R5 664 903	14.00%	R3 550 000	3%
3.	Construction	R15 700 000	38.83%	R200 000	0.2%
4	Financial and insurance			R42 805 880	36%
5	Human Health and social work services			R3 075 000	3%
6	Water supply-sewerage waste management and remediation			R745 000	0.7%
7.	Professional scientific and technical activities	R1 389 438	3.44%		
8.	Transportation and storage	R30 000	0.07%	R40 000 000	34%
9.	Information and communication	R11 317 000	27.98%	R2 717 950	2%
10.	Accommodation and food services	R0	0%		
11.	Agriculture, forestry, and fishing	R855 000	2.12%	R936 151	1%
12.	Other service activities	R0	0%	R100 000	0.1%
13.	Mining and quarrying	R0	0%		
14.	Real estate activities	R5 485 000	13.56%		
	TOTAL	**R40 441 341**	**100%**	**R117 818 203**	**100%**

NOTABLE PROCEDURAL MATTERS

There was an increase in the number of interlocutory/ procedural matters decided in the reporting period. More orders and reasons were issued in the reporting period compared to the prior year.

Table 6: Interlocutory/procedural matters in the last two financial years

Category	Orders issued		Reasons issued	
	2022-2023	2023-2024	2022-2023	2023-2024
Access to Confidential Information	1	4	0	2
Amendment Application	1	2	1	2
Condonation Application	0	1	0	1
Discovery Application	2	1	0	0
Dismissal Application	10	0	10	0
Exception	9	21	8	21
Extension Application	3	3	0	2
Filing Fee Refund	1	2	0	0
Interdict application	0	1	0	0
Intervention Application	11	9	4	6
Joinder Application	1	0	1	0
Other Procedural Matter	3	2	0	2
Points in Limine	0	1	0	1
Review of CC decision	1	0	1	0
Subpoena Challenge	0	1	0	1
Variation Order	4	2	1	1
TOTAL	**47**	**50**	**26**	**39**

The following are a few notable procedural matters adjudicated by the Tribunal during the reporting period:

Shoprite Checkers (Pty) Ltd and the Competition Commission of South Africa

Shoprite was the first national supermarket chain to voluntarily conclude a consent agreement with the Commission in relation to long-term exclusive lease agreements. In terms of the consent agreement Shoprite agreed to immediately stop enforcing exclusivity provisions in its long-term exclusive lease agreements with its landlords against SMMEs and speciality and limited line stores such as butcheries, bakeries, liquor stores and greengrocers. The consent order was confirmed by the Tribunal in October 2020. Pick n Pay later concluded a consent agreement in June 2021. Shoprite subsequently asked the Tribunal to amend its agreement due to, among others, alleged material differences between its agreement and that of its rival, Pick n Pay, which Shoprite alleged created a market distortion between the two large retailers.

It argued that the terms of Pick n Pay's agreement were more favourable because it was granted until December 2026 to phase out exclusive leases. Shoprite, being the first retailer to reach an agreement with the Commission, had to phase out exclusive leases by the end of 2024.

In addition, Shoprite was dissatisfied that in terms of its settlement it agreed to immediately stop enforcing exclusivity provisions against any other supermarkets in shopping centres in specified non-urban areas (including townships and areas outside towns and cities) implying that Pick n Pay has the freedom to expand into non-urban areas, where Shoprite cannot expand.

Shoprite also submitted that it would like to enter numerous retail shopping centres, most in urban areas, but said it is prevented from doing so because its competitors continue to enforce exclusivity provisions with landlords.

The Tribunal granted Shoprite a partial variation to the terms of its consent agreement but dismissed most of the amendments sought: (i) The Tribunal granted Shoprite the same period as Pick n Pay to phase out exclusive lease agreements (by December 2026); (ii) however, it found that Shoprite had not made out a convincing case to align its consent agreement with Pick n Pay's regarding the non-urban issue as it would not be in the public interest to do so. Shoprite has a larger retail footprint in non-urban areas where consumers, especially low-income consumers, have less choice. The Tribunal noted that there had been increased competition between supermarkets in non-urban areas following the Shoprite consent agreement and there was no cogent evidence of Shoprite being substantially worse off, given the two retailers' different geographic footprint; (iii) the Tribunal also concluded that Shoprite had not made out a sufficient case to amend its consent agreement to allow it to retain exclusivity provisions when renewing existing leases. The Tribunal noted that Shoprite was not precluded from entering shopping centres where Pick n Pay has a presence with an individual HDP franchisee.

Shoprite buys time to phase out exclusive mall lease agreements

Competition Tribunal gives retailer two more years, in line with consent deal with Pick n Pay

SHOPRITE

Shoprite's appeal rejected

TRIBUNAL: GROUP WANTS LIKE RIVAL PICK N PAY HAVE EXCLUSIVITY TERMS IN LEASES

Retail giant given a two-year extension to stop anti-competitive practice.

The Sekunjalo Group and Banks

The Tribunal had to consider, among others, whether it can extend an interim relief order it granted in circumstances where the CAC overruled the Tribunal decision, and where the CAC decision is on appeal in the Constitutional Court.

The Tribunal noted that generally an appeal suspends the operation and execution of a decision (of a lower court). The Tribunal further found, however, that it is bound by the points of law on which the CAC has pronounced, and departing from this judicial hierarchy would likely result in judicial chaos. The Tribunal noted the CAC's finding that there was no *prima facie* evidence of a prohibited practice by the banks. It concluded that this is the legal principle in the CAC's decision to which it is bound since the Tribunal must follow decisions on points of law of the CAC. In summary, the Tribunal found that the appeal of the CAC's decision by the Sekunjalo Group to the Constitutional Court does not suspend the legal principles in the CAC's decision and therefore does not revive the Tribunal's interim relief decision.

CC and Corobrik and Bosun Structures

The Tribunal granted an application by the Commission to amend its complaint referral against Corobrik and Smartstone. The Tribunal's order means that the scope of the Commission's referral, which is already before the Tribunal, will be extended to include a complaint of price fixing in addition to the existing complaint of alleged market division by allocating customers for the manufacturing and supply of bricks, pavers and blocks, in contravention of section 4(1)(b)(ii) of the Act.

Smartstone opposed the application and Corobrik did not do so. Smartstone argued that the Commission sought to include the price fixing allegation without first initiating the price fixing complaint and that this was necessary because the price fixing complaint may have prescribed. The Commission, in turn, said it had uncovered new information during the discovery phase of the proceedings before the Tribunal and argued that it was not required to initiate this complaint. Relying on the Constitutional Court's decision in *Senwes*, the Commission stated that it is only required to bring price fixing allegations before the Tribunal and the Tribunal may exercise its discretion and consider same.

In granting the application, the Tribunal found that it was necessary for the Commission to initiate the price fixing complaint prior to referring it to the Tribunal and relying on the Supreme Court of Appeal (SCA) decision in *Yara*, that such initiation may be tacit. The Tribunal also found that on the facts of the case there were two events from which a tacit decision to initiate a new complaint might be inferred, the first being the date of the filing of the witness statement from the decision to file a witness statement which set out the new complaint and/or the second being the date on which the application for amendment was filed. In the circumstances, the Tribunal found that the Commission tacitly initiated a new compliant and granted the amendment.

THE COMMISSION applied to the tribunal to amend its referral after it said it uncovered new information during the discovery phase of the proceedings before the tribunal. | FILE

COMPETITION TRIBUNAL GRANTS APPLICATION TO ADD PRICE-FIXING CHARGE AGAINST COROBRIK, SMARTSTONE

THE COMPETITION Tribunal yesterday said that it had granted an application by the Competition Commission to amend its complaint referral against Corobrik and SmartStone Precast. The tribunal is investigating a charge by the commission that the two firms divided markets between them, by allocating customers in contravention of the Competition Act. The tribunal's order means that the scope of the commission's referral, which is before the tribunal, will be extended to include a complaint of price-fixing in addition to the complaint of alleged market division by allocating customers for the manufacturing and supply of bricks, pavers and blocks, in contravention of the Competition Act.

Table 7: Developing/reinforcing case law in less prominent cases 2023/2024

	Parties	Case Type	Description
1	CCSA v BlueCollar Occupational Health (Pty) Ltd and Ateltico Investments (Pty) Ltd	Abuse of dominance	The Tribunal found BlueCollar – acting on behalf of and/or within the ambit of its partnership with Ateltico (its funder) – guilty of having charged the SAPS excessive prices for the urgent supply of ten thousand 25L containers of hand sanitiser. Despite Ateltico alleging that it is was merely a funder, the Tribunal found that Ateltico benefited from the prohibited conduct through its partnership and profit sharing with BlueCollar. It was found to be jointly and severally liable with BlueCollar for the payment of a R3 550 000 administrative penalty, the one paying the other to be absolved.
2	CCSA v South African Breweries and Others	Recusal application	The Tribunal dismissed an application brought for the recusal of a member from the panel constituted to hear an application to make a settlement agreement (between the Commission and South African Breweries (Pty) Ltd ("SAB"), and the Chairperson and Trustees of the SAB Zenzele Employee Share Trust) an order of the Tribunal, on grounds that the member sat on and decided a variation application involving the same parties. In dismissing the recusal application, the member recognised the presumption that judges (in this case Tribunal members) will carry out their oath of office of being impartial when adjudicating disputes and further that judges have a duty to sit (unless the applicant has shown bias). As such it was found that the applicants failed to rebut the presumption of impartiality of judicial officers.
3	Sasol Gas and CCSA	Application to suspend a summons	The Tribunal dismissed an application by Sasol, in terms of which Sasol sought an order suspending the legal validity and effect of a summons issued to it by the Commission, during its investigation of a complaint filed by IGUA-SA. The suspension application is related to a review application which Sasol has lodged in the CAC in which it seeks to set aside the Commission's decision to investigate the IGUA-SA complaint and issue summons. The Tribunal declined to grant the suspension application following a Constitutional Court decision in the Group 5 matter, which confirmed that only the CAC and High Court have jurisdiction over the review application in terms of which Sasol is challenging the Commission's power to investigate the complaint and issue summons.
4	CFAO Motors and CCSA	Application for a filing fee refund	The Tribunal dismissed an application for a full refund of merger filing fees (R550 000) paid to the Commission in respect of the notification of a large merger between the CFAO Motors ("the applicant") and William Simpson Cars (Pty) Ltd. Following the Tribunal's conditional approval, the merging parties filed a notice of abandonment of a merger, notifying the Commission that they would not be able to implement the transaction due to the two-year moratorium on retrenchments imposed by the Tribunal, hence the application for a filing fee refund. The Tribunal dismissed the application on the grounds that CFAO had failed to establish good cause for the remittance of its merger filing fees.
5	Absa Bank Ltd and African Equity Empowerment Investments Ltd and four others	Application to vary the Tribunal's order and reasons	The Tribunal dismissed Absa's application to vary the Tribunal's order and reasons in an interim relief application brought by the Sekunjalo Group (comprising 36 applicants) against nine banks, including Absa. Absa alleged that it had been erroneously ordered to reinstate the bank accounts of the five respondents. In order to rectify this alleged error or omission, Absa sought a variation of the Tribunal's order and reasons to allow it to not reinstate/restore the additional five bank accounts. The Tribunal found that based on Absa's own submissions and the strength of the evidence Absa placed before it in the interim relief application, there was no ambiguity or error in its order and reasons. The Tribunal also noted that it is in the public interest to have certainty and predictability regarding its orders and decisions, and that it would only depart from this principle in exceptional cases where the interests of justice require such departure. Absa also did not provide any evidence of exceptional circumstances that would warrant the Tribunal exercising its discretion to vary its order and reasons. Accordingly, the Tribunal found that there was no basis to grant Absa's application.
6	Takata South Africa (Pty) Ltd and CCSA	Exception applications	The Tribunal dismissed 21 exception applications brought by Takata SA in a matter involving 21 complaints referred to the Tribunal by the Commission. In its referral, the Commission alleges that Takata SA and five other respondents, including Takata Corporation, a Japanese incorporated company and holding company of Takata SA contravened section 4(1)(b) of the Act. It argued that the Commission had failed to disclose a cause of action because it had not alleged an agreement by Takata SA in the cartel, but rather that Takata Corporation had reached agreement with its competitors globally in Europe and/or Asia in contravention of section 4(1)(b) and consequently has not pleaded facts regarding Takata SA as a party to the alleged agreement. The Tribunal found that the grounds for exception required it to determine whether the Commission's referrals met the requirements of Tribunal Rule 15(2). In doing so, that the Tribunal must be guided by the principle of fairness, which dictates that a respondent is entitled to understand the case against it. The Tribunal concluded that the Commission had disclosed a cause of action against Takata SA and that it pleaded various avenues linking Takata SA to the prohibited conduct. Further, that this was the concise pleading required by Tribunal Rule 15.

PAUSING TO CELEBRATE 25 YEARS OF THE COMPETITION ACT

25 Years of Adjudication

President Nelson Mandela signs the Competition Act into law

The Tribunal becomes operational in September 1999

David Lewis is appointed as the first Chairperson of the Tribunal (he serves two terms from 1999-2009)

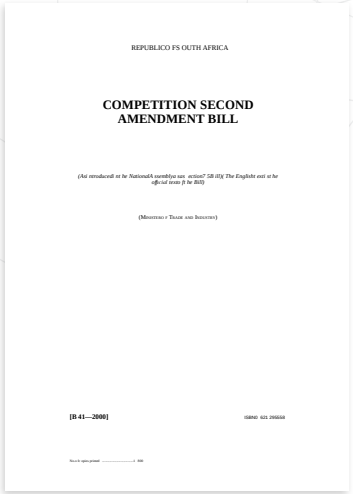
First merger approved without conditions involves involves Highveld Steel and Vanadium Corporation Ltd; Van Leer South Africa and Steelbank Merchants (Pty) Ltd t/a Drumpak in October 1999

First merger approved with conditions involves Bromor Foods Ltd and the "Game" Sports Drink from National Brands in April 2000

1998

1999

2001



REPUBLICO FS OUTH AFRICA

COMPETITION SECOND AMENDMENT BILL

(Ani introducedi ot be NationalA ssembljus sus action? SB iIIX The Englisht esti ot be official ieuts fi be BiIS)

(Ministerio f Trade and Industry)

[B 41—2000]

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In February 2001, the Competition Second Amendment Act comes into operation. At the same time, new rules for the Tribunal and Commission come into effect, as do new thresholds for merger notifications. Although the amendments were wide ranging, touching on aspects of jurisdiction, procedural rights and institutional reform, they did not affect the core provisions of the Act

A small Gqeberha business owner, who buys creosote from Sasol Oil to treat wooden poles sold to Western Cape vineyards, accuses the firm of unlawful price discrimination. The Commission declines to prosecute. The self-represented owner approaches the Tribunal. The Tribunal finds Sasol Oil guilty of price discrimination and the CAC subsequently dismisses the complaint after Sasol Oil appeals

Tribunal accepts invitation to join the Competition Committee of the organisation for Economic Co-operation and Development (OECD), enabling it to participate in meetings which deal with cutting edge competition law issues

Cross directorship come under the spotlight when Momentum seeks to acquire African Life Health from African Life Assurance Company Limited

First interim relief matter involves SA Raisins (Pty) Ltd vs SAD Holdings Ltd, ordering the respondent to refrain from requiring/ inducing producers of grapes-for-raisins not to deal with SA Raisins

First merger prohibited involves JD Group Limited and Ellerine Holdings Limited in August 2000. The Tribunal finds that the transaction will result in the removal of an effective competitor and thereby likely substantially lessen competition in the market for the sale of furniture and appliances on credit to consumers in the LSM3-5 category through national chains of furniture shops.

The Competition Appeal Court is established in September 2000 with Judge Dennis Davis as the Judge President

In November 2000 the Tribunal prohibits the merger involving Tongaat – Hulett Group Limited and Transvaal Suiker Beperk, finding that the transaction is likely to substantially prevent or lessen competition and forestall any attempt by the authorities to introduce greater competition in a deregulated or partly deregulated market, namely the South African market for refined white sugar.

> 2000

> 2006

In February 2006 the Tribunal prohibits the Sasol and Engen merger, finding that the merged entity would enjoy a near monopoly of refinery capacity and would have considerable market share in the inland retail market

The Tribunal confirms settlement agreements and imposes a combined penalty of R143 million on Tiger Brands Ltd and Foodcorp for engaging in the bread price fixing cartel

> 2007

In March 2007 the Tribunal finds that Mittal SA charged excessive prices for its flat steel products and in September 2007 it imposes a penalty of R691 800 000. The CAC in May 2009 upholds an appeal by Mittal SA against the fine and refers the matter back to the Tribunal. In September 2009 Mittal SA settles the matter with Harmony Gold (the complainant). Terms of settlement between the parties is not made public.

The case against American Natural Soda Ash Corporation (ANSAC) is settled on the eve of the conclusion of a lengthy trial in November 2008. ANSAC agrees to cease operations in SA. By one account the local soda ash market experiences immediate gains following the Tribunal's order. The Supreme Court of Appeal (SCA) in this matter first introduced the principle of characterisation to SA competition law. Prior to being heard by the SCA, the matter was heard by the Tribunal and the CAC.

The Tribunal find that a margin squeeze constitutes an abuse of dominance under the Competition Act

Norman Manoim, a full time member since the Tribunal's inception, is appointed to succeed David Lewis as the Tribunal Chairperson (he serves two terms from 2009-2019)

PIONEER FOODS
REALISING POTENTIAL

The Tribunal fines Pioneer Foods R195 million for its role in bread price fixing. It is the first time that a firm, alleged to be part of a cartel, has been the subject of a full hearing i.e. the matter is not settled by consent order and payment of a fine

PIONEER FOODS
REALISING POTENTIAL

The Tribunal approves a settlement in terms of which Pioneer Foods (Pty) Ltd agrees to pay R500 million as a penalty and towards an agro-processing fund as well as take a price reduction/ margin sacrifice on flour and bread for an agreed period

> 2009

> 2012

Telkom

In August 2012 the Tribunal imposes an administrative fine of R449 million on Telkom for abusing its dominance in the telecommunications market between 1999 and 2004, a period in which Telkom was a monopoly provider of telecommunications facilities.

> 2013

A year of FIRSTS

In a year of firsts in 2013 the Tribunal hears its first exemption appeal; it issues its first administrative fine in an opposed abuse of dominance case; and manages the first divestiture of assets flowing from a merger that had been prohibited after implementation

Settlements in the case known as the "construction cartel" are heard in July 2013. 15 firms that admitted to involvement in industry-wide collusion paid penalties totalling R1.46 billion

The Tribunal imposes a R534 million fine on Sasol Chemical Industries for excessive pricing

In November 2016, the largest penalty yet imposed by the Tribunal is in the ArcelorMittal matter. Final settlement includes a R1.5bn penalty, a price-cap on flat steel products, avoidance of retrenchments and R4.6bn in new investments in capex to improve competitiveness

The competition authorities move from the administration of the Department of Trade and Industry to the Department of Economic Development with effect from April 2010

In November 2010 the Tribunal imposes the maximum penalty allowed by the Act (10% of total turnover), on a member of a cartel in the concrete pipes industry, Southern Pipeline Contractors (Pty) Ltd, amounting to R16.8 million. This is the first time that the Tribunal imposes a penalty calculated on the basis of the total turnover of a company. In the past the Tribunal limited its penalties to the turnover relating to the products that were the subject of the cartel arrangements

The largest penalty in 2011/2012 is imposed on Lafarge Industries SA (Pty) Ltd, being R149 million for price fixing and dividing markets

In April 2012 the Constitutional Court in the Senwes matter upholds the Tribunal's decision in finding that Senwes abused its dominance. The Constitutional Court interprets the Tribunal's powers broadly, allowing it to become the master of its own proceedings, subject to fairness i.e. the Tribunal is not confined to matters raised by the Commission in its referral as this would undermine its inquisitorial powers. This is the first time the Constitutional Court is called upon to decide a matter concerning a competition issue

2010

2012

2018

2019

Autoliv, the world's largest automotive safety supplier, is fined R149.96 million for collusive conduct

The largest merger notified at the time (with a transaction value of R70 billion) is the acquisition by AB InBev of the entire share capital of SABMiller

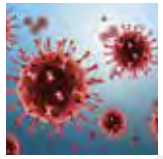
A R69 500 860 penalty is imposed on Citibank in the so-called banks forex cartel case

The Competition Amendment Bill is introduced in Parliament in July 2018, to bring significant amendments to the Act, to further empower the Tribunal and the Commission to deal more deliberately with the structural challenges of concentration and the racially skewed spread of ownership of firms in the South African economy. The amendments provide the competition authorities with greater tools to address market conduct by dominant firms and the structures of market which lead to the exclusion of small and medium business and black South Africans.

The Competition Amendment Bill is signed into law in February 2019 and amendments to the Act come into effect in July 2019 and February 2020, representing the most substantial amendments over the past 25 years, particularly with regard to public interest provisions in mergers which provide, among others, for the competition authorities to consider the effect that a merger will have "on 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."

Mondo Mazwai is appointed to succeed Norman Manoim in August 2019 as the first female and black Chairperson of the Tribunal (2019 to date)

The Tribunal approves PepsiCo Inc.'s indirect acquisition of Pioneer Food Group Ltd, through PepsiCo's SA subsidiary, Simba (Pty) Ltd in March 2020, subject to a set of public interest conditions including the promotion of a greater spread of ownership. The conditions provide for an employee share ownership scheme for workers, marking the Tribunal's first decision in this regard following the 2018 amendments.



In January 2020 COVID-19 hits South African shores. A state of National Disaster is declared in March 2020

The Minister issues Regulations in March 2020 prohibiting dominant firms from charging excessive prices for goods and services necessary to prevent the spread of COVID-19

The Tribunal issues Procedural Directives for the conduct of proceedings during the lockdown, prioritizing mergers and excessive pricing complaints in 2020

2019 > 2020 > 2022

The October 2021 Constitutional Court groundbreaking ruling in Competition Commission of South Africa v Mediclinic Southern Africa (Pty) Ltd ("Mediclinic") and Another directs that the Tribunal must apply a transformative, constitutional and context-sensitive approach to its determinations. The Tribunal had prohibited the merger between Mediclinic and Matlosana Medical Health Services (Pty) Ltd and held that the proposed merger would remove the lower tariffs that are available to uninsured patients at the target hospitals. Given the significant differences in the tariffs, it would significantly affect the uninsured patients by limiting their ability to negotiate and switch to cheaper hospitals in the form of target hospitals. As there were no remedies tendered that would effectively address the competition concerns, the proposed merger was prohibited.

In October 2022 the Constitutional Court in Competition Commission of South Africa v Group Five Construction Ltd held that in respect of a PAJA or legality review, the CAC has non-exclusive, concurrent jurisdiction with the High Court, to the exclusion of the Tribunal

The Tribunal experiences a 20% increase in its workload in 2022/2023 due to, *inter alia*, an increase in interim relief and procedural matters as well as the amendments and the increasing complexity of matters as new provisions in the amendments are tested

In March 2023 the Tribunal approves the international transaction between European brewer, Heineken, and SA alcohol producer, Distell, subject to competition and public interest conditions including, among others, Heineken divesting of Strongbow and the establishment of an ESOP

The Tribunal implements virtual/ online hearings in March 2020 as SA goes into lockdown. Tribunal adjudication continues uninterrupted throughout the pandemic and it hears 152 cases during the year

In a landmark ruling in June 2020, upheld by the CAC, the Tribunal finds Babelegi charged excessive prices for face masks. This is the first successful excessive pricing case decided by the Tribunal since the Mittal matter in 2007

The Tribunal receives and concludes a record number of excessive pricing referrals in 2020/2021 related to various products and services essential for combating the COVID-19 pandemic

In September 2021 the Tribunal approved the Burger King SA merger subject to a set of public interest conditions, to address public interest issues. , following a hearing. The Commission initially prohibited the merger on public interest grounds, as Burger King SA's HDP shareholding would drop from 68% to 0% post-merger. The amendments provide that the competition authorities consider a greater spread of ownership when assessing a merger. The conditions entailed, *inter alia*, the establishment of an ESOP in which workers would become beneficiaries of 5% interest in Burger King SA

2021

2023

2024

In May 2023 the Tribunal grants interim relief to the Industrial Gas Users' Association of Southern Africa, interdicting Sasol Gas from increasing the price of piped natural gas above R68.39/GJ, the prevailing price at the time, for six months.

In October 2023, the Tribunal prohibits the intermediate merger involving the sale of Sasol South Africa's sodium cyanide business to a Czech Republic-based sodium cyanide producer, Draslovka, protecting SA's gold mining sector from an adverse pricing effect amounting to a substantial anti-competitive or public interest effect

In November 2023, the Tribunal prohibits the intermediate merger between the Dutch owner of Dulux paint, AkzoNobel, and the owner of its local rival, Plascon, in South Africa, Japanese-owned Kansai Plascon's African and East African businesses, shielding consumers from a reduction in competition for paint products for low to middle LSM consumers

In December 2023, the Tribunal approves the Spar Group's consent agreement aimed at ending long-term exclusive leases in the grocery retail sector by 2026. The Spar Group joins Shoprite and Pick n Pay in phasing out long-term exclusive lease agreements in shopping centres across the country.

The Tribunal completes a review of the organisational structure in 2023 to assess capacity requirements

STRATEGIC OUTCOMES

The Tribunal has two strategic outcomes which are *Reliable and Responsive Adjudication* and *Transparent, Accountable and Sustainable Tribunal*.

Each strategic outcome has identified outputs and indicators which are used to measure the Tribunal's performance against agreed targets aimed at realising the purpose of the Act and the Tribunal's vision of a vibrant, competitive and inclusive economy.

Where applicable, annual targets are cascaded down to quarterly targets. Targets are not set at 100% as partial or non-achievement cannot always be attributed to the Tribunal. For example, this may be due to case-specific factors such as the complexity of matters requiring longer hearings and extended deliberations, postponements requested by parties as well as the prioritising of certain matters based on urgency.

Performance against these targets is monitored and reported quarterly to **the dtic** and National Treasury and annually in the Tribunal's Integrated Annual Reports.

Performance - Reliable and Responsive Adjudication

The Tribunal's core business and, therefore, its strategic focus is adjudicating mergers and prohibited practice cases (with eight indicators). It is required to expeditiously decide matters brought before it. The Act and Tribunal Rules prescribe time frames for issuing orders and decisions in mergers which must be adhered to. The Tribunal has eight strategic outcomes relating to Reliable and Responsive Adjudication, these are highlighted in the table below.

Table 8: Performance - Reliable and Responsive Adjudication

Adjudication								
No.	**Outcome**	**Output**	**Output Indicator**	**Audited Actual Performance 2021/2022**	**Audited Actual Performance 2022/2023**	**Planned Annual Target 2023/2024**	****Actual Achievement 2023/2024**	**Reasons for deviations**
1	Reliable and Responsive adjudication	Effective Case Management Procedures to Ensure Hearings Set Down Within Legislated Timeframes	Percentage of mergers set down for a hearing or pre-hearing within 10 business days of filing	92% (large) 100% (intermediate/ small)	90%	85%	94%	Availability of both parties and tribunal members assisted in exceeding the target.
2	Reliable and Responsive adjudication	Effective and Timeous Issuing of Orders, and Reasons	Percentage of merger orders issued to parties within 10 business days following conclusion of the hearing	100% (large) 100% (intermediate/ small)	100%	85%	100%	Target was exceeded due to case360 alerts to case managers sending email reminders of targets.

Table 8: Performance - Reliable and Responsive Adjudication (Continued)

Adjudication								
No.	**Outcome**	**Output**	**Output Indicator**	**Audited Actual Performance 2021/2022**	**Audited Actual Performance 2022/2023**	**Planned Annual Target 2023/2024**	****Actual Achievement 2023/2024**	**Reasons for deviations**
3	Reliable and Responsive adjudication	Effective and Timeous Issuing of Orders, and Reasons	Percentage of reasons for mergers issued to parties within 20 business days of order being issued	92% (large) 0% (intermediate/ small)	88%	75%	81%	Target was exceeded due to improvement of internal timelines.
4	Reliable and Responsive adjudication	Effective and Timeous Issuing of Orders, and Reasons	Number of reports regarding competition and public interest considerations in mergers.	New indicator	4 reports sent to **the dtic**	4 reports sent to **the dtic**	4 reports sent to **the dtic**	No deviation
5	Reliable and Responsive adjudication	Effective and Timeous Issuing of Orders, and Reasons	Percentage of reasons for prohibited practice cases are issued to parties within 120 business days following conclusion of the hearing	No reasons issued (simple) 0% (complex) No reasons issued (very complex)	0%	60%	25%	Four reasons were issued, of which three were over the 120 days due to the nature of the prohibited practice cases, which raised complex legal and economic issues and required consideration of extensive evidence.
6	Reliable and Responsive adjudication	Effective and Timeous Issuing of Orders, and Reasons	Percentage of procedural matter orders issued to parties within 45 business days following conclusion of the hearing.	84%	57%	65%	40%	50 orders were issued, of which thirty were outside of the 45 days. 21 orders belonged to one case. This was due to capacity constraints. These matters raised complex, legal and economic issues. In particular, the issues for determination in these matters required extensive consultation between the panel members, in addition to the capacity constraints of members who draft orders while simultaneously sitting in multiple hearings including managing pre-trial processes in other matters.

Table 8: Performance - Reliable and Responsive Adjudication (Continued)

Adjudication								
No.	**Outcome**	**Output**	**Output Indicator**	**Audited Actual Performance 2021/2022**	**Audited Actual Performance 2022/2023**	**Planned Annual Target 2023/2024**	****Actual Achievement 2023/2024**	**Reasons for deviations**
7	Reliable and Responsive adjudication	Effective and Timeous Issuing of Orders, and Reasons	Percentage orders for consent orders and settlement agreements issued to parties within 10 business days following conclusion of the hearing.	97%	100%	80%	100%	Target was exceeded due to case360 alerts to case managers sending email reminders of targets.
8	Reliable and Responsive adjudication	Effective and Timeous Issuing of Orders, and Reasons	Percentage of reasons in interim relief matters issued to parties within 30 business days of last hearing date.	No reasons issued	0%	65%	33%	Three reasons were issued, of which two were not within the 30 business days as they raised complex, legal and economic issues, in addition to the capacity constraints of members who simultaneously sit in multiple hearings while also drafting reasons including managing pre-trial processes in other matters.

Performance - Transparent, Accountable and Sustainable Tribunal

The Tribunal's second strategic objective, Transparent, Accountable and Sustainable Tribunal (with15 indicators), requires the organisation to have effective oversight structures in place to ensure efficient operations, financial and risk management, and reporting. As a public entity, the Tribunal has a responsibility to exercise transparency and accountability in its operations and reporting, in terms of the PFMA.

The Tribunal embraces a culture of transparency and acknowledges the importance of communication and information sharing with stakeholders, particularly in the context of accountability as a public entity. Performance against targets is monitored and reported quarterly to **the dtic** and National Treasury and annually in the Integrated Annual Reports and to Parliament.

Table 9: Performance - Transparent, Accountable and Sustainable Tribunal

Communication								
No.	**Outcome**	**Output**	**Output Indicator**	**Audited Actual Performance 2021/2022**	**Audited Actual Performance 2022/2023**	**Planned Annual Target 2023/2024**	****Actual Achievement 2023/2024**	**Reasons for deviations**
1	Transparent, Accountable and Sustainable Tribunal	Effective communication and information sharing	Percentage press releases of final merger decisions communicated within 3 business days of order date and after finalisation of confidentiality claims.	77%	99%	90%	100%	The Tribunal was able to exceed its target due to there being a few number of cases that required confidentiality claims to be cleared, and/or feedback was received from the parties regarding confidentiality within 3 days of the order.
2	Transparent, Accountable and Sustainable Tribunal	Effective communication and information sharing	Percentage of press releases of prohibited practice decisions communicated within 3 business days of order date and after the finalisation of confidentiality claims.	0%	100%	90%	100%	The Tribunal was able to exceed its target due to there being a few number of cases that required confidentiality claims to be cleared, and/or feedback was received from the parties regarding confidentiality within 3 days of the order.
3	Transparent, Accountable and Sustainable Tribunal	Effective communication and information sharing	Biennial update and publication of jurisprudence handbook.	Handbook updated	N/A	N/A	N/A	No target set for the current period

Table 9: Performance - Transparent, Accountable and Sustainable Tribunal (Continued)

Business Processes									
No.	**Outcome**	**Output**	**Output Indicator**	**Audited Actual Performance 2021/2022**	**Audited Actual Performance 2022/2023**	**Planned Annual Target 2023/2024**	****Actual Achievement 2023/2024**	**Deviation from planned target to Actual Achievement 2023/2024**	**Reasons for deviations**
4	Transparent, Accountable and Sustainable Tribunal	Improvement in clients using the entities services	Percentage score of client satisfaction with Tribunal systems	New Indicator	N/A	65%	68.75%	3,75%	Target exceeded as the survey respondents' providing more favourable outcomes.

Governance									
No.	**Outcome**	**Output**	**Output Indicator**	**Audited Actual Performance 2021/2022**	**Audited Actual Performance 2022/2023**	**Planned Annual Target 202232024**	****Actual Achievement 2023/2024**	**Deviation from Planned Target to Actual Achievement 2023/2024**	**Reasons for deviations**
5	Transparent, Accountable and Sustainable Tribunal	Sound governance	Percentage of prior financial year audit findings (internal and external) resolved in terms of agreed timelines with auditors	100%	100%	100%	100%	No deviation	No deviation
6	Transparent, Accountable and Sustainable Tribunal	Sound governance	Audit Outcome	Unqualified audit opinion	Unqualified audit opinion	Unqualified audit opinion	Unqualified audit opinion	No deviation	No deviation

Table 9: Performance - Transparent, Accountable and Sustainable Tribunal (Continued)

Financial management									
No.	**Outcome**	**Output**	**Output Indicator**	**Audited Actual Performance 2021/2022**	**Audited Actual Performance 2022/2023**	**Planned Annual Target 2023/2024**	****Actual Achievement 2023/2024**	**Deviation from Planned Target to Actual Achievement 2023/2024**	**Reasons for deviations**
7	Transparent, Accountable and Sustainable Tribunal	Effective financial management	Percentage of expenditure against budget	90%	-4%	90%	112%	22%	Expenditure exceeded target due to the filling of vacancies that will be funded through the surplus retention approved from National Treasury
8	Transparent, Accountable and Sustainable Tribunal	Transformation in procurement practices	Percentage of expenditure on B-BBEE suppliers	New Indicator	97,15% of expenditure spent on suppliers between B-BBEE levels 1-4, 22,32% of which was on women, youth or PWDs.	70% of expenditure spent on suppliers between the B-BBEE levels 1-4, 20% of which will be on women, youth or PWDs.	98,66% of expenditure spent on suppliers between the B-BBEE levels 1-4, 31.42% of which will be on women, youth or PWDs.	28,66% 22%	The type of expenditure incurred together with the BBBEE levels of the companies used during the current quarter, positively contributed to the Tribunal exceeding the target.
9	Transparent, Accountable and Sustainable Tribunal	Transformation in procurement practices	Percentage of expenditure on EME suppliers	New Indicator	New Indicator	30% of expenditure on suppliers that are classified as EME suppliers	55,41% of expenditure on suppliers that are classified as EME suppliers	25,41%	RFQ thresholds were revised from 01 April 2023 to include EME and QSE suppliers as part of the Preferential Procurement Specific Goals of the Tribunal. This has positively contributed to the Tribunal exceeding this target.

	Transformation, human capacity development and training								
No.	**Outcome**	**Output**	**Output Indicator**	**Audited Actual Performance 2021/2022**	**Audited Actual Performance 2022/2023**	**Planned Annual Target 2023/2024**	****Actual Achievement 2023/2024**	**Deviation from Planned Target to Actual Achievement 2023/2024**	**Reasons for deviations**
10	Delivery / capable state	Transformation, Capacity development, retention and training	% of performance assessments conducted annually	3.5	65%	100% of performance assessments conducted	100% of performance assessments conducted	No deviation	No deviation

Table 9: Performance - Accountable, Sustainable and Transparent Entity (Continued)

	Transformation, human capacity development and training								
No.	**Outcome**	**Output**	**Output Indicator**	**Audited Actual Performance 2021/2022**	**Audited Actual Performance 2022/2023**	**Planned Annual Target 2023/2024**	****Actual Achievement 2023/2024**	**Deviation from Planned Target to Actual Achievement 2023/2024**	**Reasons for deviations**
11	Transparent, Accountable and Sustainable Tribunal	Transformation, Capacity development, retention and training	Percentage staff retention.	12%	90%	80%	94%	14%	There were two resignations The recent organisational review has motivated staff and contributed to higher retention rate.
12	Transparent, Accountable and Sustainable Tribunal	Transformation, Capacity development, retention and training	Percentage of staff training expenditure against total employee costs	New Indicator	New Indicator	2%	2%	No deviation	No deviation
13	Transparent, Accountable and Sustainable Tribunal	Transformation, Capacity development, retention and training	Number of training initiatives implemented for staff and Tribunal members.	New Indicator	3 training initiatives held	Four training initiatives (To be determined on a needs basis at the appropriate time)	Four training initiatives	No deviation	No deviation
14	Transparent, Accountable and Sustainable Tribunal	Transformation, Capacity development, retention and training	Number of capacity building workshop for Case Managers and Tribunal Members.	New Indicator	New Indicator	One annual capacity building workshop	One annual capacity building workshop	No deviation	No deviation
15	Transparent, Accountable and Sustainable Tribunal	Transformation, Capacity development, retention and training	Number of interns provided with opportunities within the Tribunal	2	2	2	1	1	There was only one intern at the end of the financial year. During the year there were three interns, however two interns were promoted to Case Managers in the fourth quarter.
16	Transparent, Accountable and Sustainable Tribunal	Transformation, Capacity development, retention and training	Percentage of employment equity representation of employees from the designated groups	New Indicator	85%	75%	94%	19%	The Tribunal ensures that suitably qualified people from designated groups have equal employment opportunities. Current year appointments had improved the percentage significantly.

OUR FINANCIAL PERFORMANCE

The Tribunal is an independent adjudicative body whose function is to adjudicate on competition matters including mergers and acquisitions and prohibited practices (anti-competitive conduct) in accordance with the Competition Act 89 of 1998 (the Act), the Constitution and without fear, favour, or prejudice.

Our objective is to be sustainable while meeting our adjudicative objectives. The budget was accordingly set to meet operational expenses.

We are funded mainly through a grant from the Department of Trade, Industry and Competition (**dtic**), and a percentage of filing fees for mergers filed at the Competition Commission. In 2023/24, the grant received was R42.70 million (R42.3 million in 2022/23), which was reduced by 10% during the year to R38.43 million due to National Treasury's cost containment measures.

In terms of a Memorandum of Agreement between the Commission and the Tribunal, the Tribunal is entitled to a set portion of filing fees that the Commission levies for mergers. Filing fees received in the financial reporting period were R15.5 million (R18.5 million in 2022/23). The filing fees decreased by 16.3% from the previous year due to a decrease in merger activity, resulting in a 9.5% decrease in total revenue year-on-year. Filing fees significantly fluctuate year-on-year, based on merger activity.

The Tribunal has continued to exercise prudent financial management on the expenditure side. In 2023/24, the Tribunal's total expenditure was R66 million (R61.2 million in 2022/23). Employee related costs, which account for the bulk of the Tribunal's total expenditure, increased by 17% from the prior year, which was mainly due to positions that were filled during the year.

The net effect is that the Tribunal reported a net deficit of R9.3 million for 2023/24 (compared to a R1.5 million surplus in 2022/23). This is due to both a lower than budgeted filing fee income (lower by R4 million) and the reduction in grant allocation.

In September 2023, we received a 10% reduction in the grant allocation (R4 million) for the 2023/24 financial year. In November 2023, this reduction was further imposed on the Medium-Term Expenditure Framework outer years.

In the same period (November 2023), we also received approval from the National Treasury to retain an accumulated cash surplus of R18.9 million in November 2023, to be used for priorities as identified in the 2023/24 financial year. The priorities related mainly to increasing staff capacity. The National Treasury requested the Tribunal to ensure that the positions are funded from its baseline budget and that the positions are aligned to the new organisational structure. Subsequent to the reduction in the grant allocation, the full implementation of the organisational structure was placed on hold.

Budget reductions and cost containment measures introduced in the 2023/24 financial year have placed significant pressure on the ability to perform against the Tribunal's targets and the Tribunal's planned expansion. Discussions with **the dtic** and National Treasury regarding the Tribunal's funding requirements for the long term are ongoing.

We remain committed to adjudicating for competitive and inclusive markets for the benefit of the South African consumer.

Our significant areas of expenditure include:

- R33.7 million (51% of total expenditure) on our core objective of Reliable and Responsive Adjudication
- R17 million (26% of total expenditure) on our core objective of being an Transparent, Accountable and Sustainable Tribunal

Table 10 is an illustration of how our budget was allocated and spent across the Tribunal's two strategic objectives. The table is inclusive of capital expenditure. From the results, it is clear that the Tribunal is an efficient organisation, having spent 78% of its total expenditure on its strategic objectives in the financial year.

Personnel costs account for the bulk of the Tribunal's total expenditure. The Tribunal had overspent 13% of the budgeted personnel costs for the year due to funding approved by National treasury through the surplus retention.

Table 10: Budget across the Tribunal's strategic objectives

2023/2024					
Objectives	**Budget (R)**	**% budget by objective**	**Expenditure (R)**	**% spend of total expenditure**	**% of budget spent**
Reliable and Responsive Adjudication	**30,480,817**		**33,733,938**		**111%**
Effective Case Management Procedures	13,579,570	44.55%	15,469,895	24%	114%
Effective and Timeous Issuing of Orders, and Reasons	16,901,247	55.45%	18,264,044	28%	108%
Transparent, Accountable and Sustainable Tribunal	**20,253,423**		**17,134,955**		**84.60%**
Effective Communication and Information Sharing	1,329,131	6.56%	185,774	0%	14%
Integrated Knowledge Management and Effective Records Management	3,424,793	16.91%	3,872,542	6%	113%
Effective financial management	7,742,274	38.23%	10,252,476	16%	143%
Capacity, development, retention and training	4,027,694	19.89%	2,824,163	4%	70%
Total Other Expenditure	**11,418,191**		**14,700,715**		**125%**
Administration	10,021,870	87.77%	12,689,754	19%	127%
Depreciation	552,980	4.84%	599,103	1%	108%
Capital	393,341	3.44%	370,243	1%	94%
Appeal Court	450,000	3.94%	868,779	1%	193%
Total Expenditure	**62,152,431**		**65,569,608**		**112%**

PART D

Governance

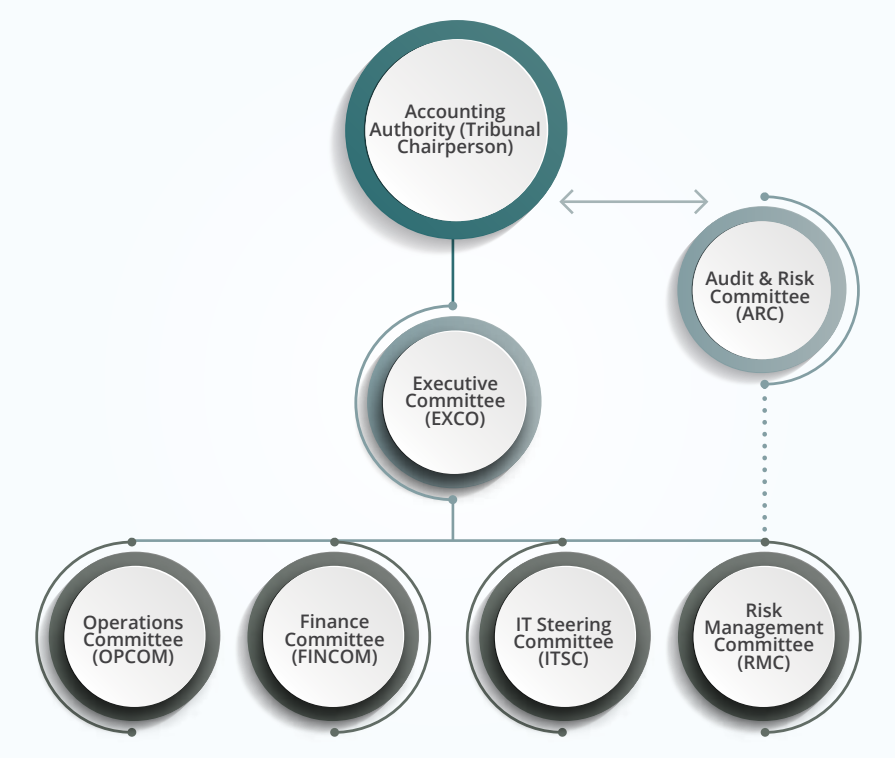
PART D: GOVERNANCE

OUR OVERSIGHT STRUCTURES

The main purpose of our governance structures is to ensure that the entity is managed in a sound, accountable and transparent way. The governance structures also ensure the entity's compliance with statutory requirements.

Corporate governance involves processes and systems by which public entities are directed, controlled and held to account. In addition to legislative requirements based on a public entity's enabling legislation, and the Companies Act, corporate governance is applied through the precepts of the PFMA and run in tandem with the principles contained in the King Report on Corporate Governance.

Diagram 2: The Tribunal's oversight structures



The Tribunal has an Audit and Risk Committee (ARC) which is an independent oversight structure. The ARC provides assurance over the governance of the Tribunal, as set out in its Charter. It's main role is to assist the Accounting Authority in fulfilling her responsibilities of financial reporting, compliance with the law, accuracy of performance information against pre-determined objectives and governance, implementing an effective Risk Management Framework, monitoring the implementation of risk management and governance and ensuring that the necessary mechanisms are in place to prevent, detect and investigate fraud at the workplace.

The ARC, which meets on a quarterly basis, comprises a maximum of five independent non-executive members who collectively must have the requisite skills, experience and qualifications to fulfil their duties. Members' terms are limited to three years and they may serve a second term, subject to a maximum of two terms. The Committee is chaired by an independent non-executive member and convenes at least four times per financial year.

The ARC held five meetings during the reporting period i.e., 25 May; 28 July; 28 August; 27 November; and 29 February 2024. Members are remunerated at applicable SACIA rates. ARC members and their attendance is set out in Table 14 below.

Table 11: ARC meeting attendance and remuneration

Name	Qualification	Date of Appointment	End of term	No of meetings attended	Fees
Abigail Thulare, Chairperson	Risk Management	July 2018	June 2024	5/5	0.00
Vernon Makaleni	Risk Management	Nov 2022	Oct 2025	5/5	R 54 087,44
Tshepiso Poho	CA	Feb 2023	Jan 2026	5/5	R54 087,44

**Ms Thulare is currently not remunerated as a non-executive member, as she is working for an organ of the state.*

RISK MANAGEMENT

Since first establishing an Audit Committee in March 2000 (with a view to assisting EXCO and, in turn, the Accounting Authority, in fulfilling their supervisory responsibilities on internal controls, risk management, compliance with laws, regulations, ethics and financial management), the Tribunal has, over the years, developed robust risk management process. There have been continuous improvements in processes, with risk management being integrated into internal business processes (governance, planning, operations, management and reporting) within the Tribunal. This approach to risk management has assisted the Tribunal to effectively and proactively identify, assess and mitigate risks, including emerging risks.

The Tribunal has an established Risk Management Committee chaired by the CFO. The Committee comprises the COO and the Heads of Registry, Case Management, Corporate Services and Finance as well as the IT Administrator.

The Risk Management Committee is a formal operational committee responsible for assisting the Accounting Authority in discharging her responsibilities with respect to risk management. At each of its meetings, the Risk Management Committee reviews the risk reports presented by the Chief Risk Officer and the extent to which risk management has been implemented in terms of the risk implementation plan. The Risk Management Committee submits a report to the ARC, providing assurance that risks are adequately managed in the Tribunal.

The Accounting Authority is responsible and accountable for the overall process of risk management in terms of the PFMA. However, implementation is the responsibility of management and staff. A Combined Assurance Plan is used to optimise assurance coverage from all the different lines of defence (management, risk practitioners, internal auditors, external auditors, oversight committees and other assurance providers).

A risk is defined as an uncertain event that may impact negatively or positively on the Tribunal's ability to achieve its objectives. Table 15 illustrates the Tribunal's strategic risks. In terms of the Tribunal's risk register, each risk is categorised according to its origin, inherent and residual exposure and the effectiveness of mitigating controls. A risk owner is assigned to each risk in order to develop action plans to address the risk exposure. On a quarterly basis, assurance providers assess mitigating controls and provide documentary evidence for the conclusions they make on their effectiveness. Early signals of increasing or decreasing risk exposure are obtained from key risk indicators (KRIs) assigned to each risk. Each KRI has a specific tolerance limit or acceptable level of exposure. Risk owners must measure actual exposure against these limits and in instances where these are exceeded, determine an appropriate risk response and corrective action to be implemented. The Risk Management Committee monitors the progress of these actions against set target dates. Quarterly risk meetings are also used by management to identify any risks to be added or removed from the register as well as identify any emerging risk management needs that need to be considered.

Table 12: The Tribunal's strategic risks as at 31 March 2024

Risk no.	Risk name	Control effectiveness	Residual risk exposure	Risk response
1.	Business interruption	Satisfactory	Within risk tolerance	Treat
2.	Inadequate information security	Satisfactory	Within risk tolerance	Tolerate
3.	Financial sustainability	Satisfactory	Within risk tolerance	Tolerate
4.	Inadequate capacity	Satisfactory	Moderate	Treat
5.	Poor and inefficient case management	Satisfactory	Moderate	Treat
6.	Inadequate systems and processes	Satisfactory	Within risk appetite	Tolerate
7.	Reputational risk	Satisfactory	Within risk appetite	Tolerate
8.	Regulatory non-compliance	satisfactory	Within risk tolerance	Tolerate
9.	Fraud and corruption	Satisfactory	Moderate	Treat

REPORT OF THE AUDIT AND RISK COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2024.

AUDIT AND RISK COMMITTEE'S RESPONSIBILITY

The Committee reports that it has complied with its responsibilities arising from section 55 (1) of the Public Finance Management Act (PFMA) and National Treasury Regulations 27.1.7 and 27.1.10(b) and (c).

The Committee also reports that it has adopted appropriate formal terms of reference as approved by the Accounting Authority. The Committee has regulated its affairs in compliance with its Charter and has discharged all its responsibilities as contained therein.

The Committee is required, as per the approved Charter, to meet at least four times per annum. During the period under review the Committee held four meetings and one special meeting to consider the end-of-year audit for both AFS and AOPO for 2023/24.

The effectiveness of internal control

The system of controls is designed to provide cost effective assurance that assets are safeguarded and that liabilities and working capital are efficiently managed.

In line with PFMA and the King IV report on corporate governance requirements, internal audit provides the Committee and management with assurance that the internal controls are appropriate and effective. This is achieved through the risk management process as well as the identification of corrective actions and suggested enhancements to the controls and processes.

From the various reports of the internal auditors, the audit report on the annual financial statements, any qualification and/or emphasis of matter, and the management letter of the Auditor-General, it was noted that no significant or material non-compliance with prescribed policies and procedures has been reported.

Accordingly, we can report that the system of internal control for the period under review was efficient and effective.

The quality of in-year management and monthly/ quarterly reports submitted in terms of the PFMA

Monthly and quarterly reports on performance information and the Tribunal's finances were presented and reported in Committee meetings and were monitored throughout the year. The Committee is satisfied with the content and quality of monthly and quarterly reports prepared and issued by the Accounting Authority of the Tribunal in the year under review.

Evaluation of annual financial statements

The Committee has:

- reviewed and discussed the Audited Annual Financial Statements to be included in the annual report, with the Auditor-General and the Accounting Authority;
- reviewed the Auditor-General's management report and management's response thereto;
- reviewed and discussed the performance information with management;
- reviewed changes in accounting policies and practices; and
- reviewed the entity's compliance with legal and regulatory provisions.

The Committee would like to highlight that the Tribunal is highly dependent on the approval of the retention of accumulated surplus from the National Treasury, as well as the approval of the annual grants from **the dtic** to maintain its going concern status.

The Committee is satisfied that the entity continues to be a going concern per the assessment that has been performed by management.

INTERNAL AUDIT

We are satisfied that the internal audit function has operated effectively and that it has addressed the risks pertinent to the Tribunal in its audits and has assisted the entity with value-added services to ensure that both financial and operational objectives are achieved.

The following internal audit work was completed during the year under review:

- Performance Information Review;
- Enterprise Risk Management Review;
- Information Technology Review;
- Registry Management Review;
- Human Resource Management Review;
- Internal Financial Control Review;
- Supply Chain Management Review; and
- Follow-up Reviews on the previous year findings.

AUDITOR-GENERAL, SOUTH AFRICA

We have engaged with the Auditor-General to ensure that there were no unresolved issues.

RISK MANAGEMENT

The Committee confirms that in the period under review the Tribunal has continued to rigorously manage its strategic and operational risks in order to achieve its mandate.

The Committee assisted the Accounting Authority in:

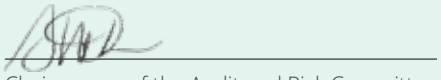
- reviewing the risk management policy and recommending same to the Accounting Authority for approval;
- monitoring the implementation of the risk management framework, and through structured systems and processes designed for that purpose, ensuring that:
  - Management disseminates the risk management policy and plan throughout the entity; and
  - Management ensures that the risk management plan is integrated into the daily activities of the business. Based upon the reports of management, and any reviews by internal and external auditors, the Committee expresses formally to the Accounting Authority its opinion on the effectiveness of risk management systems and processes.
  - reviewing the risk management report at each meeting and have particular regard to:
  - ensuring that a process exists where risk management frameworks and methodologies are implemented to increase the possibility of anticipating unpredictable risk;
  - ensuring that a process exists where risk management assessments are performed continuously including the identification of any emerging risk and mitigation thereof;
  - ensuring that management considers and implements appropriate risk responses; and
  - ensuring that continuous risk monitoring by management takes place.

In supporting these objectives, the Committee further conducted the following activities:

- overseeing the review of the entity's strategic risk register management policy;
- assisting the Accounting Authority in determining the material strategic and operational risks, and the concomitant opportunities that could potentially impact/ benefit the entity;
  - reviewing procedures to ensure that the entity's risk management framework was properly implemented throughout the operations and that the requisite training was undertaken; and
  - reviewing the implementation of the risk management plan and assessing whether the implementation efforts were successful and consistent with desired outcomes.

Combined Assurance

The Tribunal has implemented a formalised combined assurance plan that encompasses four lines of defence. The Committee has received assurance from management as well as internal and external assurance providers that risks are being appropriately managed.



Chairperson of the Audit and Risk Committee
Ms Abigail Thulare
31 July 2024

AUDITING OUR WORK, PROCESSES AND PROCEDURES

The Tribunal maintains an effective internal and external audit function in compliance with section 188 of the Constitution, section 4(3)(a) of the Public Audit Act, 2004, section 5(1)(a)(ii) of the PFMA, Treasury Regulation 27.22.2 and section 40(10) of the Competition Act.

The external audit function is a statutory function performed by the Auditor-General and its current focus is on the financial accounts and management, compliance with the law and performance against predetermined objectives. This audit is performed at year-end and an audit opinion is provided as to whether the financial statements present a true reflection of the Tribunal's financial position and financial performance.

The respective responsibilities of the Accounting Authority and the Auditor-General with regard to the annual audit are contained in an engagement letter. An Audit Steering Committee comprising the COO, CFO and representatives of the Auditor-General meet regularly to discuss the audit and to monitor progress against the plan.

The CFO is responsible for resolving audit findings reported in the management report. The audited financial statements, as presented to the Accounting Authority and Audit Committee as well as the audit opinion, are presented in Part F.

We are pleased to report that the Tribunal has once again received a clean audit, being the organisation's 8th consecutive clean audit.

While the external auditors perform a single audit per annum, the internal audit is conducted throughout the year. The internal audit function had been outsourced to Nexia SAB&T. The internal audit team is reflected in Table 16:

Table 13: Internal audit team

Team Management	Qualification/s	Years of experience
Muhamed Fazel Suleman	CA(SA)	17
Merlin Naidoo	National Diploma Internal Auditing	20
Christopher Lamla	BCOMPT	10
David Matsila	NHC Accountancy; NDip Internal Auditing; B-Tech Internal Auditing	4
Roberto Galleti	CISA	15

The Tribunal has implemented and adheres to a combined assurance model and, therefore, where possible the functions of the various assurance providers (such as management, risk management, internal and external audit) are co-ordinated to ensure proper coverage and reduce duplication where possible. The audit is risk-based and is conducted in accordance with standards of conduct and codes of ethics prescribed by the Institute of Internal Auditors (IIA) while an Internal Audit Charter defines the purpose, authority, terms of reference, objectives, powers, duties and responsibilities of this function. A total of 8 areas were audited by internal audit during the financial year under review and findings are shown in Table 17 below:

Table 14: Internal audits 2023/2024

Audit Area	Major	Significant	Moderate	Low	Total findings
Performance Information Review			2	1	**3**
Enterprise Risk Management Review		1			**1**
Information Technology Review					**0**
Registry Review		1			**1**
Human Resource Management Review		1	2	2	**5**
Internal Financial Control Review			3	1	**4**
Supply Chain Management Review			1		**1**
Follow-up Review					
Total	**0**	**3**	**8**	**4**	**15**

Management has, in consultation with the internal auditors, adopted an effective corrective action process for resolving prior year audit findings. We are pleased to report that the internal auditors have concluded their audit and that 5 (100%) of the prior year's audit findings are ready for audit. There are currently 20 internal audit findings outstanding from the 2023/2024 financial year, of which 19 are ready for audit and one is partially resolved. The table below reflects the status of all internal audit findings as at 31 March 2024:

Table 15: Status of all internal audit findings

Status	Prior Years	2023/2024	Total	%
Resolved (R)		0	0	
Partially Resolved		1	1	5%
Not Resolved			0	
Ready for Audit	5	14	19	95%
Not Yet Due			0	
Total Findings	**5**	**15**	**20**	**100%**

PREVENTING FRAUD

The Tribunal prides itself on its policy of zero tolerance towards fraud and a clean track record throughout its 25-year history in regard to preventing fraud. The PFMA and National Treasury regulations require that a fraud prevention plan is included as a component of the risk management strategy. Pursuant to these requirements, the Tribunal has a Fraud Prevention Plan which is incorporated into the Risk Management Strategy. The Fraud Prevention Plan is communicated to all employees who are required to sign an anti-fraud statement, confirming their commitment to fraud prevention.

The ARC has independent oversight over the implementation of fraud prevention, ensuring the necessary mechanisms are in place to prevent, detect and investigate fraud. In addition, it addresses policy and processes for the reporting, investigation and resolution of fraud matters. The functions, authority and responsibilities of the ARC in respect of fraud prevention is detailed in its charter and is a standing item on the agenda of its meetings. The ARC also ensures that fraud risks are identified, evaluated and assessed as part of the Tribunal's risk management process. During the reporting period, there were no alleged incidents of fraud that required investigation or reporting.

MAINTAINING EFFECTIVE IT GOVERNANCE IN THE TRIBUNAL

The Tribunal's IT functions have evolved and progressed, since the organisation's inception 25 years ago, to keep up with digital trends on all fronts, particularly in the information management, digital communication and security fields. As IT evolves at an increasingly rapid pace, we are able to provide multi-platform digital access to information and provide a user-friendly technology driven environment for employees and stakeholders. The Tribunal also prides itself on its track record of securing digital and physical information.

In recent years, the Tribunal has progressed towards implementing a more paperless CMS through the implementation of a digital system and business intelligence reporting. This has enabled the Tribunal to easily and rapidly extract information from our digital databases when required. We have also implemented and configured a cloud-based office environment for employees that has little to no reliance on internal hosting infrastructure.

The Tribunal's ability to keep pace with technological advancements over the years has stood the organisation in good stead, particularly during the pandemic and subsequent lockdowns. The office and collaboration platforms that were implemented for cloud space greatly assisted us to seamlessly move toward hearing cases online or in a hybrid work environment and continuing with corporate and case related work with remote access services. This online method of working was well received by our stakeholders and we are still utilising these systems for hearings and meetings.

Technological advancements are accompanied by a growing risk of digital threats and entities are forced to find improved ways of protecting information. In this regard, the Tribunal made the decision to move toward cloud-based solutions for security services as trends show that cloud protection toolsets, along with cross platform security integration, offer industry leading digital protection. The future for IT in the Tribunal is to migrate more of our services and processes to cloud-based platforms which are evolving at a rapid pace, to ensure that we benefit from efficient and secure workplace solutions.

During the reporting period, two of our operational IT policies were subject to a review process. The first policy deals with all aspects of IT security i.e. firewall security, information access methods, rights assignment, systems and services in place to secure Tribunal information and digital and physical IT infrastructure. The second policy contains processes and procedures for our information technology disaster recovery plan. The focus is primarily placed on backup and restoration services of information systems and information technology hardware. The remaining IT policies are reviewed based on a review frequency date captured in the policy life cycle review process. The review life cycle can range from an annual review to one review every third year.

Disaster Recovery

In addition to having an implemented IT disaster recovery plan, we are required to undertake an annual test to determine if the disaster recovery processes and procedures are still valid for the current technology environment. The testing process consists of following the procedures and guides in the IT disaster recovery plan to establish if they are adhered to internally by the relevant staff members involved in testing, as well as establishing if the service provider can recover information within approved service level agreement timeframes. The test was conducted in March 2024 and was successful in all areas.

Cyber Security

We use various IT security tools to protect information systems and infrastructure. Our protection systems range from internal and external firewalls to cloud based security tools such as anti-virus systems and e-mail communication protection services. Our range of cyber security toolsets and procedures succeeded in providing adequate protection to our software and hardware infrastructure during the reporting period and as far as we are aware there were no successful attacks against our digital and physical security systems.

System Enhancements

In the previous reporting period we implemented custom enhancements to the CMS to ensure that case turnaround times are met, documents are completed timeously and the quality and quantity of information extracted from our business intelligence reporting utility is improved. We added to these enhancements during the reporting period i.e. adding additional data fields to further improve the quality of information extracted. We also implemented two upgrades to our primary reporting system that improve functionality, security and user experience.

At the time of writing, we are also in the process of re-developing and re-designing the Tribunal website, primarily to improve the search functionality and user experience for website visitors.

COMPLIANCE WITH LAWS AND REGULATIONS

The Tribunal has to comply with a myriad of legislation and areas of compliance that governs its operations including, but not limited to, the following:

- The Constitution of the Republic of South Africa, 1996
- The Competition Act 89 of 1998
- The Competition Tribunal Rules
- The Public Finance Management Act 1 of 1999 and Treasury Regulations
- The Broad-Based Black Economic Empowerment Act 53 of 2003
- The Income Tax Act 28 of 1997
- The Preferential Procurement Policy Framework Act 5 of 2000
- Prevention and Combating of Corrupt Activities Act 12 of 2004
- The Employment Equity Act 55 of 1998
- The Skills Development Act 97 of 1998
- The Unemployment Insurance Fund Act, 2001
- The Occupational Health and Safety Act 85 of 1993
- The Labour Relations Act 66 of 1995
- The Basic Conditions of Employment Act 75 of 1997

The Tribunal is also mandated to report on its B-BBEE compliance. It does this through a system that allows the organisation to collect data on suppliers it procures from and determines its spend in terms of B-BBEE level and enterprise size. In this way, the Tribunal can measure its contribution towards the national agenda of redressing historical imbalances and to advance SMMEs and women-owned businesses. This is in line with the Tribunal's legislative mandate to ensure that SMMEs and women-owned businesses have an equitable opportunity to participate in the economy and to promote a greater spread of ownership. Our spend by B-BBEE for the year under review is reported below:

Table 16: The Tribunal's spend on B-BBEE

Level	2022/2023		2023/2024	
	Spend	%	Spend	%
Government entities	R6,997,169	48%	R9,263,624	48%
Level 1	R4,824,371	33%	R7,118,906	37.14%
Level 2	R485,853	3%	R861,651	4.50%
Level 3	R0	0%	R87,995	0.46%
Level 4	R1,987,834	14%	R1,703,583	8.89%
Level 5	R1,719	0%		0%
Level 6	R0	0%		0%
Level 7	R0	0%		0%
Level 8	R0	0%		0%
Not defined	R214,387	1%	R132,634	1%
Total	**R14,511,333**	100%	**R19,168,394**	100%

THE TRIBUNAL'S ETHICAL CULTURE

Best practice requires that the Tribunal Chairperson, as the Accounting Authority, leads the Tribunal ethically and effectively and ensures that an ethical culture is established. The Tribunal has implemented numerous practices and policies that seek to avoid conflicts of interest and enforce good governance. Other practices and policies in place include, but are not limited to the following:

Operational

- Any gift to the value of R300 or more has to be declared and recorded in the gift register;
- Mandatory disclosure requirements with regard to conflict of interest and financial interest are in place;
- All contracts of employment impose an obligation of disclosure on the employee;
- All employees and service providers (appointed on contract) are required to sign a nondisclosure agreement and an anti-fraud statement;
- A code of conduct policy is in place and is applicable to all employees; and
- A conflict-of-interest policy is in place that covers specific situations which may constitute a conflict of interest (e.g. persons using their position to obtain private gifts or benefits; diverting business opportunities in which the Tribunal may have an interest, away from the Tribunal and using the Tribunal's resources for personal gain).

Adjudicative

- Any gift to the value of R300 or more has to be declared and recorded in the gift register;
- Mandatory disclosure requirements with regard to conflict of interest and financial interest are in place;
- All contracts of employment impose an obligation of disclosure on the employee;
- All employees and service providers (appointed on contract) are required to sign a nondisclosure agreement and an anti-fraud statement;
- A code of conduct policy is in place and is applicable to all employees; and
- A conflict-of-interest policy is in place that covers specific situations which may constitute a conflict of interest (e.g. persons using their position to obtain private gifts or benefits; diverting business opportunities in which the Tribunal may have an interest, away from the Tribunal and using the Tribunal's resources for personal gain).

GOVERNANCE STRUCTURES

- Declarations of independence are to be signed by all members of interview panels and Bid Adjudication and Bid Evaluation Committees;
- A Charter for the Audit and Risk Committee contains clauses pertaining to ethical conduct; and
- Committee members are required to sign a non-disclosure agreement and an anti-fraud statement.

PART E

Human Resource Management

OUR STAFF

PART E – HUMAN RESOURCE MANAGEMENT

HUMAN RESOURCE MANAGEMENT

The Competition Tribunal has undergone remarkable transformation over the past 25 years, both in terms of its workforce composition and organisational structure, reinforcing a more diverse, inclusive, and effective organization. From a staff of 22 in 1999, the Tribunal's size has remained relatively unchanged over 25 years. It's staff complement as at 31 March 2024 was 31 (excluding members). Notwithstanding its size and limited resources, the Tribunal continues to be a significant player in competition law enforcement, the Tribunal's journey exemplifies the importance of adaptability, innovation and commitment to excellence.

From inception, the Tribunal had already demonstrated a commitment to the empowerment of women, with women comprising 50% of the workforce, with 22% of senior positions held by women.

On 1 August 2019, President Cyril Ramaphosa appointed Mondo Mazwai as the first female and first black Chairperson to lead the Tribunal. With a wealth of competition law experience (having worked at the Commission, in private practice and as a Tribunal member prior) she replaced Norman Manoim, who completed his second term at the Tribunal after a decade at its helm.

Female representation has increased substantially, with women constituting 61% of the workforce. The Tribunal's commitment to women's empowerment remains strong, with 32% of management positions now held by women. The equity ratio for female and male representation has shifted to 61% and 39%, respectively, reflecting a more diverse and inclusive workforce.

The Tribunal's organisational structure has also evolved over the years to accommodate its growth and changing needs. New divisions, including Corporate Services, Finance and the Office of the COO, have been established, reflecting an expanded scope of operations and responsibilities. In addition, the Tribunal for the first time appointed a CFO to head the finance division in the previous reporting period.

Initiatives such as an organisational structure review, undertaken in the 2022/2023 financial year, demonstrate the Tribunal's commitment to ensuring it remains 'fit for purpose'. This review recommended increasing the staff complement to 60 positions, with a focus on increasing members and strengthening the Case Management Division. Given the continued increase in the volume and complexity of the matters being brought before the Tribunal, skilled capacity is required in this division. The Tribunal will use a phased-in approach over three years to fill capacity in line with the organisational structure review recommendations and subject to budget availability.

Inadequate capacity and financial sustainability have been identified, among others, as the Tribunal's top strategic risks. In this regard, steps have been taken to increase staff capacity through an organisational structure review process which included the capacitation of Tribunal members and the Case Management Division. Tribunal member vacancies have impacted on the efficiency of the adjudicative process and caused delays in certain turnaround times, particularly with regard to the issuing of reasons for decisions.

This has also been further exacerbated by the increased complexity of cases as a result of the amendments to the Act for which there is no established precedent. Therefore, it is vital to fully capacitate the Tribunal so that it can effectively meet the increased demand for its services.

1999

2024

EMPLOYMENT EQUITY

The Tribunal considers employment equity in recruiting staff and this is reflected in the racial and gender distribution. The Tribunal complies with the requirements of the Employment Equity Act in ensuring that suitably qualified employees from designated groups have equal opportunity and are equitably represented in all occupational categories and levels of the workforce.

The Tribunal has prioritised women empowerment in its workforce. Below is a table setting out the current distribution of gender within the Tribunal (a staff complement of 41 comprising all Tribunal members, operational staff and interns). This demonstrates that 61% of the Tribunal's workforce constitutes women. 32% of the workforce is made up of women in management positions.

In the 2023/2024 financial year, the equity ratio for female and male representation is 61% and 39%, respectively. The Tribunal's race and gender profile is as follows:

Table 17: The Tribunal's race and gender profile

	Female			Female Total	Male			Male Total	Grand Total
	African	Indian	White		African	Indian	White		
Tribunal Chairperson	1			1					1
Tribunal Deputy Chairperson					1			1	1
Part-time members	1	1	1	3	1	1	1	3	6
Other full-time members							1	1	1
Divisional heads	2	1		3	1			1	4
Senior Case Managers	6			6					6
Case Managers		1	1	2	3			3	5
Administration and Support staff	8		2	10	5		1	6	16
Interns					1			1	1
Grand Total	**18**	**3**	**4**	**25**	**12**	**1**	**3**	**16**	**41**

REMUNERATION

The Tribunal strives to attract and retain the best talent and as such endeavours to maintain market related salaries and remunerates its employees in line with the designated market.

The remuneration structure applied in the Tribunal is a Total Cost to Company (TCC) structure, including compulsory medical and retirement contributions. Additional benefits include risk cover, parking, contributions to an employee assistance programme (EAP) and a communication allowance. These benefits are subject to tax.

Annual cost of living adjustments, applicable to and implemented in the public sector, are used as a benchmark for annual adjustments for Tribunal staff, subject to budget availability. During the reporting period all staff and senior management received a cost-of-living adjustment. The cost-of-living adjustment for members is benchmarked against the remuneration of High Court judges.

PERFORMANCE MANAGEMENT

The Tribunal has a strong performance management system in place that acknowledges and provides incentives for outstanding performance subject to availability of resources. During the review period, the Tribunal successfully implemented its performance management policy. By effectively managing performance, the Tribunal ensures that its staff are motivated and productive, enabling the Tribunal to carry out its objectives efficiently. Additionally, this performance management system assists managers and employees in identifying areas of excellence to build on, as well as areas that need improvement, training, and development.

LEARNING AND DEVELOPMENT

Since its inception, the Tribunal has remained committed to capacity building and development. Proactive steps are taken to provide world-class training and development for staff to maximise the human resource potential of all employees, necessary to ensure efficiency and performance excellence. Our capacity building efforts include in-house training as well as local and international training workshops, conferences and seminars.

The Tribunal must keep abreast of competition law developments in other jurisdictions. Mergers and acquisitions and prohibited practices (cartels and abuse of dominance) very often occur across borders and require knowledge sharing by competition authorities. To this end, the Tribunal was able to provide continuous learning opportunities to staff and members during the reporting period including in-house training and workshops on the most recent developments in competition law. The Tribunal also hosted a high-level visit of the COMESA Board of Commissioners and we shared experiences on case management, procedures, conduct of hearings and decision making. Other areas of training during the reporting period sought to develop employees' knowledge and skills in the areas of Human Resources and Occupational Health and Safety (OHS) in an effort to support continued good governance practices in the Tribunal.

Furthermore, study loans were awarded to ten staff members. As per the Tribunal's policy, study loans are converted into bursaries when employees pass their registered modules at the end of the study term. Employees are then required to provide services to the Tribunal for a minimum period stipulated in the contractual agreement.

OCCUPATIONAL HEALTH AND SAFETY

The Tribunal is obliged, in terms of the Occupational Health and Safety Act, to ensure a healthy and safe working environment for its employees. An OHS Committee performs its duties in accordance with legislative requirements. Committee representatives attend continuous training for their respective roles, ensuring effective preparedness during an emergency situation. The representatives also perform monthly and quarterly checklists and report to the ARC. The HR Manager is responsible for ensuring that the Tribunal complies with OHS standards. OHS risks or potential safety hazards are assessed and are included in the Tribunal's risk register. Controls are implemented and monitored to mitigate risks in this regard. A quarterly OHS report is also presented to the ARC for review and discussion.

EMPLOYEE WELLNESS

The Tribunal places utmost importance on the well-being of its staff and takes proactive measures to support them through wellness programmes. In recent years, including during the reporting period, the Tribunal has partnered with wellness companies to offer comprehensive support services to employees and their families, completely free of charge. This encompasses various services including emotional, psychological, legal, and financial counselling, and empowering employees to address both personal and work-related challenges effectively. The Tribunal ensures ongoing awareness by distributing monthly electronic information leaflets, covering topics ranging from medical prevention and treatment to general well-being. Additionally, annual wellness days provide opportunities for employees to engage in voluntary clinical health screenings, including tests for cholesterol, glucose, blood pressure, body mass index, and HIV counselling and testing, further promoting a culture of proactive health management within the organisation.

PART F

Annual Financial Statements

CONTENTS

THE REPORTS AND STATEMENTS SET OUT BELOW COMPRISE THE ANNUAL FINANCIAL STATEMENTS PRESENTED TO PARLIAMENT:

Report of the Auditor General to Parliament on the Competition Tribunal
Accounting Authority's Responsibilities and Approval Audit Committee Report
Chairperson's Report
Statement of Financial Position
Statement of Financial Performance
Statement of Changes in Net Assets
Cash Flow Statement
Statement of Comparison of Budget and Actual Amounts Significant Accounting Policies
Notes to the Annual Financial Statements

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE COMPETITION TRIBUNAL

Report on the financial statements

I have reviewed the financial statements of the Competition Tribunal set out on pages 101-134, which comprise the statement of financial position as at 31 March 2024 statement of financial performance, statement of changes in net assets, and cash flow statement and statement of comparison of budget information with actual information for the year then ended, as well as notes to the financial statements, including a summary of significant accounting policies.

Basis for conclusion

1. Based on my review, nothing has come to my attention that causes me to believe that the financial statements do not present fairly, in all material respects, the financial position of the Competition Tribunal as at 31 March 2024 and its financial performance and cash flows for the year then ended in accordance with the Standards of General Recognised Accounting Practice (Standards of GRAP) and the requirements of the Public Finance Management Act 1 of 1999 (PFMA).

Responsibilities of the Accounting authority for the financial statements

2. The Accounting Authority is responsible for the preparation and fair presentation of the financial statements in accordance with the Standards of General Recognised Accounting Practice (Standards of GRAP) and for such internal control as the Accounting Authority determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

3. In preparing the financial statements, the accounting authority is responsible for assessing the public entity's ability to continue as a going concern; disclosing, as applicable, matters relating to going concern; and using the going concern basis of accounting unless the appropriate governance structure either intends to liquidate the public entity or to cease operations, or has no realistic alternative but to do so.

Responsibilities of the auditor-general for the audit of the financial statements

4. My responsibility is to express a conclusion on the accompanying financial statements. I conducted my review in accordance with the International Standard on Review Engagements {ISRE) 2400 (Revised), Engagements to review historical financial statements. The standard requires me to conclude on whether anything has come to my attention that causes me to believe that the financial statements, taken as a whole, are not prepared in all material respects in accordance with the applicable financial reporting framework. This standard also requires me to comply with relevant ethical requirements.

5. A review of financial statements in accordance with ISRE 2400 (Revised) is a limited assurance engagement. I am required to perform procedures, primarily consisting of making inquiries of management and others within the auditee, as appropriate, and applying analytical procedures, and evaluating the evidence obtained.

6. The procedures performed in a review engagement are substantially less than those performed in an audit conducted in accordance with International Standards on Auditing. Accordingly, I do not express an audit opinion on these financial statements.

Report on the annual performance report

7. In accordance with the Public Audit Act 25 of 2004 (PM) and the general notice issued in terms thereof, I must audit and report on the usefulness and reliability of the reported performance information against predetermined objectives for the selected material performance indicators presented in the annual performance report. The accounting authority is responsible for the preparation of the annual performance report.

8. I selected the following material performance indicators related to Outcome 1: Reliable and Responsive Adjudication presented in the annual performance report for the year ended 31 March 2024. I selected those indicators that measure the public entity's performance on its primary mandated functions and that are of significant national, community or public interest.

- Percentage of mergers set down for a hearing or pre-hearing within 10 business days of filing.
- Percentage of merger orders issued to parties within 10 business days of last hearing date.
- Percentage of reasons for mergers issued to parties within 20 business days of order being issued.
- Number of reports regarding competition and public interest considerations in mergers.
- Percenta·ge of reasons for prohibited practice cases are issued to parties within 120 business days following conclusion of the hearing.
- Percentage of procedural matter orders issued to parties within 45 business days of the last hearing date.
- Percentage orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date.
- Percentage of reasons in interim relief matters issued to parties within 30 business days of last hearing date.

9. I evaluated the reported performance information for the selected material performance indicators against the criteria developed from the performance management and reporting framework, as defined in the general notice. When an annual performance report is prepared using these criteria, it provides useful and reliable information and insights to users on the public entity's planning and delivery on its mandate and objectives.

10. I performed procedures to test whether:

- the indicators used for planning and reporting on performance can be linked directly to the public entity's mandate and the achievement of its planned objectives
- the indicators are well defined and verifiable to ensure that they are easy to understand and apply consistently and that I can confirm the methods and processes to be used for measuring achievements
- the targets linked directly to the achievement of the indicators and are specific, time bound and measurable to ensure that it is easy to understand what should be delivered and by when, the required level of performance as well as how performance will be evaluated
- the indicators and targets reported on in the annual performance report are the same as what was committed to in the approved initial or revised planning documents
- the reported performance information is presented in the annual performance report in the prescribed manner
- there are adequate supporting evidence for the achievements reported and for the reasons provided for any over- or underachievement of targets.

11. I performed the procedures for the purpose of reporting material findings only.

12. I did not identify any material findings on the reported performance information for the selected material performance indicators.

Report on compliance with legislation

13. In accordance with the PAA and the general notice issued in terms thereof, I must audit and report on compliance with applicable legislation relating to financial matters, financial management and other related matters. The accounting authority is responsible for the public entity's compliance with legislation.

14. I performed procedures to test compliance with selected requirements in key legislation in accordance with the AGSA findings engagement methodology. This engagement is not an assurance engagement. Accordingly, I do not express an assurance opinion or conclusion.

15. Through an established AGSA process, I selected requirements in key legislation for compliance testing that are relevant to the financial and performance management of the public entity, clear to allow consistent measurement and evaluation, while also sufficiently detailed and readily available to report in an understandable manner. The selected legislative requirements are included in the annexure to this auditor's report.

16. I did not identify any material non-compliance with the selected legislative requirements.

Internal control deficiencies

17. I considered internal control relevant to my engagement on the financial statements, annual performance report and compliance with applicable legislation; however, my objective was not to express any form of assurance on it.

18. I did not identify any significant deficiencies in internal control.

Professional ethics and quality control

19. I am independent of the public entity in accordance with the International Ethics Standards Board for Accountants' International code of ethics for professional accountants (including International Independence Standards) (IESBA code) as well as other ethical requirements that are relevant to my engagements in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.

20. In accordance with the International Standard on Quality Management 1, the AGSA maintains a comprehensive system of quality management that includes documented policies and procedures on compliance with ethical requirements and professional standards.

Auditor-General

Pretoria
31 July 2024

AUDITOR-GENERAL SOUTH AFRICA
Auditing to build public confidence

ANNEXURE TO THE AUDITOR'S REPORT

Compliance with legislation - selected legislative requirements

The selected legislative requirements are as follows:

Legislation	Sections or regulations
Public Finance Management Act 1 of 1999 (PFMA)	Section 51(1)(b)(i); 51(1)(b)(ii); 51(1)(e)(iii); 53(4); 54(2)(c); 54(2)(d); 55(1)(a); 55(1)(b); 55(1)(c)(i); 56(1); 57(b)
Treasury Regulations, 2005	Regulation 8.2.1; 8.2.2; 16A3.2; 16A3.2(a); 16A6.1; 16A6.2(a); 16A6.2(b); 16A6.3(a); 16A6.3(a); 16A6.3(b);16A6.3(c); 16A6.3(e); 16A6.4; 16A6.5;16A6.6; 16A.7.1; 16A.7.3; 16A.7.6; 16A.7.7; 16A8.3; 16A8.4; 16A9.1(b)(ii); 16A 9.1(d); 16A9.1(e); 16A9.1(f);16A9.2; 16A9.2(a)(ii); 30.1.1; 30.1.3(a); 30.1.3(b); 30.1.3(d); 30.2.1; 31.2.1; 33.1.1; 33.1.3
Companies Act 71 of 2008	Section 45(2); 45(3)(a)(ii); 45(3)(b)(i); 45(3)(b)(ii); 45(4); 46(1)(a); 46(1)(b); 46(1)(c); 112(2)(a)
Construction Industry Development Board Act 38 of 2000	Section 18(1)
Construction Industry Development Board Regulations, 2004	Regulation 17; 25(7A)
Second amendment National Treasury Instruction No. 5 of 202/21	Paragraph 1
Erratum National Treasury Instruction No. 5 of 202/21	Paragraph 2
National Treasury instruction No 5 of 2020/21	Paragraph 4.8; 4.9; 5.3
National Instruction No. 1 of 2021/22	Paragraph 4.1
National Instruction No. 4 of 2015/16	Paragraph 3.4
National Treasury SCM Instruction No. 4A of 2016/17	Paragraph 6
National Treasury SCM Instruction No. 03 of 2021/22	Paragraph 4.1; 4.2(b); 4.3; 4.4; 4.4(a); 4.17; 7.2;7.6
National Treasury SCM Instruction No. 11 of 2020/21	Paragraph 3.4(a); 3.4(b); 3.9
National Treasury SCM Instruction No. 2 of 2021/22	Paragraph 3.2.1; 3.2.4; 3.2.4(a); 3.3.1
Practice Note 11 of 2008/9	Paragraph 2.1; 3.1 (b)
Practice Note 5 of 2009/10	Paragraph 3.3
Practice Note 7 of 2009/10	Paragraph 4.1.2
Preferential Procurement Policy Framework Act 5 of 2000	Section 1; 2.1(a); 2.1(f)
Preferential Procurement Regulations, 2022	Regulation 4.1; 4.2; 4.3; 4.4; 5.1; 5.2; 5.3; 5.4
Preferential Procurement Regulations, 2017	Regulation 4.1; 4.2; 5.1; 5.3; 5.6; 5. 7; 6.1; 6.2; 6.3; 6.5; 6.6; 6.8; 7.1; 7.2; 7.3; 7.5; 7.6; 7.8; 8.2; 8.5; 9.1; 9.2; 10.1; 10.2; 11.1; 11.2
Prevention and Combating of Corrupt Activities Act 12 of 2004	Section 34(1)

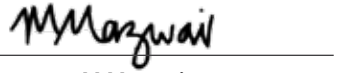
ACCOUNTING AUTHORITY'S RESPONSIBILITIES AND APPROVAL

The Accounting Authority is responsible for the preparation, integrity and fair presentation of the financial statements of the Tribunal for the year ended 31 March 2024.

The financial statements presented on pages 101-134 have been prepared in accordance with the South African Statements of Generally Recognised Accounting Practice (GRAP) including any interpretations, guidelines and directives issued by the Accounting Standards Board in accordance with Section 55 of the Public Finance Management Act to the extent as indicated in the accounting policies, and include amounts based on judgments and estimates made by management.

The going concern basis has been adopted in preparing the financial statements. The Accounting Authority has no reason to believe that sufficient funding will not be obtained to continue with the official functions of the Tribunal. These financial statements support the viability of the Tribunal.

The Accounting Authority initially approved and submitted the annual financial statements to the Auditor-General South Africa on 31 May 2024.



M Mazwai
Chairperson

CHAIRPERSON'S REPORT

1. FINANCIAL HIGHLIGHTS

The Tribunal is an independent adjudicative body whose function is to adjudicate on competition matters including mergers and acquisitions, and prohibited practices (anti-competitive conduct) in accordance with the Competition Act 89 of 1998 (the Act), the Constitution and without fear, favour, or prejudice.

Our objective is to be sustainable while meeting our adjudicative objectives. The budget was accordingly set to meet operational expenses.

We are funded mainly through a grant from the Department of Trade, Industry and Competition (dtic), and a percentage of filing fees for mergers filed at the Competition Commission. In 2023/24, the grant received was R42.70 million (R42.3 million in 2022/23), which was reduced by 10% during the year to R38.43 million due to National Treasury's cost containment measures.

In terms of a Memorandum of Agreement between the Commission and the Tribunal, the Tribunal is entitled to a fixed percentage of filing fees that the Commission levies for mergers. Filing fees received in the financial reporting period were R15.5 million (R18.5 million in 2022/23). The filing fees decreased by 16.3% from the previous year due to a decrease in merger activity, resulting in a 9.5% decrease in total revenue year-on-year. Filing fees significantly fluctuate year-on-year, based on merger activity.

The Tribunal has continued to exercise prudent financial management on the expenditure side. In 2023/24, the Tribunal's total expenditure was R66 million (R61.2 million in 2022/23). Employee related costs, which account for the bulk of the Tribunal's total expenditure, increased by 17% from the prior year, which was mainly due to positions that were filled during the year.
The net effect is that the Tribunal reported a net deficit of R9.3 million for 2023/24 (compared to a R1.5 million surplus in 2022/23). This is due to both a lower than budgeted filing fee income (lower by R4 million) and the reduction in grant allocation.

In September 2023, we received a 10% reduction in the grant allocation (R4 million) for the 2023/24 financial year. In November 2023, this reduction was further imposed on the Medium-Term Expenditure Framework outer years.

In the same period (November 2023), we also received approval from the National Treasury to retain an accumulated cash surplus of R18.9 million in November 2023, to be used for priorities as identified in the 2023/24 financial year. The priorities related mainly to increasing staff capacity. The National Treasury requested the Tribunal to ensure that the positions are funded from its baseline budget and that the positions are aligned to the new organisational structure. Subsequent to the reduction in the grant allocation, the full implementation of the organisational structure was placed on hold.

Budget reductions and cost containment measures introduced in the 2023/24 financial year have placed significant pressure on the ability to perform against the Tribunal's targets and the Tribunal's planned expansion. Discussions with **the dtic** and National Treasury regarding the Tribunal's funding requirements for the long term are ongoing.

We remain committed to adjudicating for competitive and inclusive markets for the benefit of the South African consumer.

2. ORGANISATIONAL PERFORMANCE

The Tribunal has jurisdiction over all economic activity within or having an effect within the Republic of South Africa. The Tribunal can *inter alia*: a) prohibit or approve (with or without conditions) intermediate mergers decided by the Commission and brought to it for consideration; b) prohibit or approve (with or without conditions) large mergers recommended to the Tribunal by the Competition Commission; c) adjudicate in relation to any conduct prohibited in terms of chapters 2 or 3 of the Act; d) consider consent agreements; and e) grant an order for costs in terms of section 57 of the Act. Once the Tribunal arrives at a decision, it is required to publish its reasons.

As of 31 March 2024, the Tribunal had three full-time members and six part-time members. For most matters, each panel is comprised of three members. In the period April 2023 to March 2024, the Tribunal heard 150 matters, this included 92 mergers, 1 contested cartel case, 22 consent/settlement agreements, 28 procedural matters and 7 interim relief applications. 39 of the mergers had conditional approvals of which 35 related to public interest conditions and 4 conditions addressed competition conditions.

The year in review is measured against the objectives set in the 2023/24 Annual Performance Plan. This in turn is informed by the 2020 - 2025 Medium Term Expenditure Framework.

The Tribunal has 24 targets split among its two strategic objectives of Reliable and Responsive Adjudication, and Accountable, Sustainable and Transparent Entity. During the year under review, the Tribunal achieved 19 of its 24 targets.

In respect of the *Reliable and Responsive Adjudication* objective:

- 5 of 8 targets were achieved.

- 3 targets were not achieved. These 3 targets relate to the issuing of reasons in matters involving prohibited practices and interim relief applications, and the issuing of orders in procedural matters, within stipulated time frames. Of the 150 matters heard during the year under review, we were unable to meet the stipulated time frames on three targets due to *inter alia* the complexity of cases, and as well as capacity constraints of members.

In respect of the *Accountable, Sustainable and Transparent Entity* objective:

- 14 of 16 targets were achieved.

- 1 target was not achieved. The target related to the number of interns within the Tribunal. There was only one intern at the end of the financial year (instead of two as per the target). During the year there were three interns, however two interns were promoted to case managers in the fourth quarter. The process for the recruitment of new interns had not been completed by 31 March 2024.

- 1 target was not due for measuring as it was deferred to the 2024/25 financial year in the revised APP 2023/24 (as a result of the budget cut).

3. SUBSEQUENT EVENTS

There were no subsequent events identified during the year under review.

4. MANAGEMENT COMMITTEE

In compliance with Treasury Regulation 28.1.1 the annual financial statements disclose remuneration in respect of the persons in charge of the entity, namely the Chairperson, Deputy Chairperson, full-time Tribunal Members, the Chief Operating Officer and the Chief Financial Officer. These are found in Note 26.

5. NUMBER OF EMPLOYEES

As at March 2024, the Tribunal had 31 full-time employees and one intern. In addition, the Tribunal had three full-time members and six members serving in a part-time capacity.

6. IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

It is a point of institutional pride that the Tribunal has not incurred any irregular, fruitless and wasteful expenditure.

7. MANAGEMENT FEE PAID TO THE COMPETITION COMMISSION

The Tribunal and the Competition Commission share premises and therefore certain services. In terms of a Memorandum of Agreement (MOA) signed between the two entities, the Tribunal pays a monthly management fee to the Competition Commission for services related to the use of the premises. The management fee for the period under review was R60 657 per month. The MOA and management fee are reviewed annually.

8. MATERIALITY FRAMEWORK

The Tribunal determined a planning materiality for the current period in terms of a materiality framework.

Any loss or comparable quantifiable fact that exceeds the materiality figure identified must be disclosed in the annual report and financial statements if the disclosure is required by law and/or the fact could influence the decisions of the executive authority or legislature.

For the year under review, there were no material losses that required additional disclosure.

9. GOING CONCERN

The annual financial statements are prepared on the basis of accounting policies applicable to a going concern and that **the dtic** has neither an intention nor the need to liquidate or materially curtail the scale of the Tribunal.

In addition to the above, the Tribunal performed a going concern assessment and concluded that despite the negative operating cash flows and the net deficit for the financial year, the Tribunal is solvent, and the liquidity ratios are favourable. The cash flows are such that the Tribunal can maintain its operations for at least one year of the reporting date of the financial statements. There are no contingent liabilities that may jeopardise the Tribunal's ability to perform its functions and fulfil its mandate in terms of the Act.

STATEMENT OF FINANCIAL POSITION AS AT 31 MARCH 2024

	Note(s)	2024 '000	2023 '000
ASSETS			
CURRENT ASSETS			
Inventories	3	24	23
Receivables from exchange transactions	4	1,869	2,497
Prepayments	5	1,050	673
Cash and cash equivalents	6	14,180	22,951
		17,123	**26,144**
NON-CURRENT ASSETS			
Property, plant and equipment	7	2,260	2,001
Intangible assets	8	2,453	1,813
		4,713	**3,814**
Total Assets		**21,836**	**29,958**
LIABILITIES			
CURRENT LIABILITIES			
Finance lease obligation	9	152	138
Payables from exchange transactions	10	2,037	1,304
Provisions	11	5,648	5,108
		7,837	**6,550**
NON-CURRENT LIABILITIES			
Finance lease obligation	9	78	230
Total Liabilities		**7,915**	**6,780**
Net Assets		**13,921**	**23,178**
Accumulated surplus		13,921	23,178
Total Net Assets		**13,921**	**23,178**

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 31 MARCH 2024

	Note(s)	2024 '000	2023 '000
Revenue			
Revenue from exchange transactions			
Fees earned	13	15,461	18,472
Other income	14	181	22
Interest received	15	2,646	1,865
Total revenue from exchange transactions		**18,288**	**20,359**
Revenue from non-exchange transactions			
Transfer revenue			
Government grants & subsidies	16	38,433	42,286
Total revenue		**56,721**	**62,645**
Expenditure			
Employee related costs	17	(44,190)	(37,766)
Depreciation and amortisation	18	(968)	(906)
Finance costs	19	(30)	(17)
Administrative expenses	20	(10,122)	(10,880)
Loss on disposal of assets	21	(23)	(137)
Other operating expenses	22	(10,645)	(11,449)
Total expenditure		**(65,978)**	**(61,155)**
(Deficit) surplus for the year		**(9,257)**	**1,490**

STATEMENT OF CHANGES IN NET ASSETS

	Accumulated surplus / deficit '000	Total net assets '000
Balance at 01 April 2022	**21,688**	**21,688**
Changes in net assets		
Surplus for the year	1,490	1,490
Total changes	1,490	1,490
Balance at 01 April 2023	**23,178**	**23,178**
Changes in net assets		
Surplus for the year	(9,257)	(9,257)
Total changes	(9,257)	(9,257)
Balance at 31 March 2024	**13,921**	**13,921**

CASH FLOW STATEMENT FOR THE YEAR ENDED 31 MARCH 2024

	Note(s)	2024 '000	2023 '000
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts			
Grants		38,433	42,286
Interest income		2,646	1,865
Fees received		16,465	16,889
Other cash item		172	1
		57,716	61,041
Payments			
Employee costs		(43,650)	(34,193)
Suppliers		(20,776)	(23,411)
Finance costs		(30)	(17)
		(64,456)	(57,621)
Net cash flows from operating activities	23	**(6,740)**	**3,420**
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of property, plant and equipment	7	(883)	(757)
Capitalised development costs	8	(1,010)	-
Net cash flows from investing activities		**(1,893)**	**(757)**
CASH FLOWS FROM FINANCING ACTIVITIES			
Finance lease payments		(138)	(98)
Net increase/(decrease) in cash and cash equivalents		**(8,771)**	**2,565**
Cash and cash equivalents at the beginning of the year		22,951	20,386
Cash and cash equivalents at the end of the year	6	**14,180**	**22,951**

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

Budget on Accrual Basis

	Approved budget	Adjustments	Final Budget	Actual amounts on comparable basis	Difference between final budget and actual	Reference
	'000	'000	'000	'000	'000	
Statement of Financial Performance						
REVENUE						
REVENUE FROM EXCHANGE TRANSACTIONS						
Fees earned	19,367	-	**19,367**	15,461	**(3,906)**	Note 34
Other income	-	-	**-**	181	**181**	
Interest received	1,000	-	**1,000**	2,646	**1,646**	Note 34
Total revenue from exchange transactions	**20,367**	**-**	**20,367**	**18,288**	**(2,079)**	
REVENUE FROM NON- EXCHANGE TRANSACTIONS						
TRANSFER REVENUE						
Government grants & subsidies	42,703	(4,270)	**38,433**	38,433	**-**	Note 34
Total revenue	**63,070**	**(4,270)**	**58,800**	**56,721**	**(2,079)**	
EXPENDITURE						
Employee costs	(41,082)	4,270	**(36,812)**	(44,190)	**(7,378)**	Note 34
Depreciation and amortisation	(947)	-	**(947)**	(968)	**(21)**	
Finance costs	(50)	-	**(50)**	(30)	**20**	
Administrative expenses	(9,991)	-	**(9,991)**	(10,122)	**(131)**	
Other operating expenses	(11,000)	-	**(11,000)**	(10,645)	**355**	Note 34
Total expenditure	**(63,070)**	**4,270**	**(58,800)**	**(65,955)**	**(7,155)**	
Operating deficit -	**-**	**-**	**-**	**(9,234)**	**(9,234)**	
Loss on disposal of assets and liabilities	-	-	**-**	(23)	**(23)**	
Deficit before taxation	**-**	**-**	**-**	**(9,257)**	**(9,257)**	

1. SIGNIFICANT ACCOUNTING POLICIES

The significant accounting policies applied in the preparation of these annual financial statements are set out below.

1.1 BASIS OF PREPARATION

The annual financial statements have been prepared in accordance with the Standards of Generally Recognised Accounting Practice (GRAP), issued by the Accounting Standards Board in accordance with Section 91(1) of the Public Finance Management Act (Act 1 of 1999).

These annual financial statements have been prepared on an accrual basis of accounting and are in accordance with historical cost convention as the basis of measurement, unless specified otherwise. They are presented in South African Rand. All figures presented are rounded off to the nearest thousand.

These accounting policies are consistent with the previous period.

1.2 GOING CONCERN ASSUMPTION

These annual financial statements have been prepared based on the expectation that the entity will continue to operate as a going concern for at least the next 12 months.

1.3 MATERIALITY

Omissions or misstatements of items are material if they could, individually or collectively, influence the decisions or assessments of users made on the basis of the financial statements. Materiality depends on the nature or size of the omission or misstatement judged in the surrounding circumstances. The nature or size of the information item, or a combination of both, could be the determining factor.

Assessing whether an omission or misstatement could influence decisions of users, and so be material, requires consideration of the characteristics of those users. The Framework for the Preparation and Presentation of Financial Statements states that users are assumed to have a reasonable knowledge of government, its activities, accounting and a willingness to study the information with reasonable diligence. Therefore, the assessment takes into account how users with such attributes could reasonably be expected to be influenced in making and evaluating decisions.

The Tribunal does not retrospectively adjust the accounting of past items (or group of items) that were previously assessed as immaterial, unless an error occurred.

1.4 SIGNIFICANT JUDGMENTS AND SOURCES OF ESTIMATION UNCERTAINTY

In preparing the annual financial statements, management is required to make estimates and assumptions that affect the amounts represented in the annual financial statements and related disclosures. Use of available information and the application of judgment is inherent in the formation of estimates. Actual results in the future could differ from these estimates which may be material to the annual financial statements. Significant judgments include:

Other significant judgments, sources of estimation uncertainty and/or relating information, have been disclosed in the relating notes.

1.4 SIGNIFICANT JUDGMENTS AND SOURCES OF ESTIMATION UNCERTAINTY (CONTINUED)

Provision for accumulated leave

Management had taken the number of annual leave days due per employee as at the year end and estimated a cost for this provision by multiplying the number of days due per employee by the daily salary rate per employee as reflected in payroll.

Provision for bonus

Performance bonus reviews are generally concluded for a financial year by the 31st May and are then recognised as an accrual. For the 2023/24 financial year, this process has not been concluded. Based on this, a provision was therefore raised instead of an accrual due to the uncertainty in the value to be raised. The provision estimated was based on the current year's estimated ratings and the current year packages. For the new employees that qualify the estimated rates will be based on the Remuneration Policy and these will be pro-rated for the months employed.

Amortisation of internally generated software

The Tribunal developed an electronic document management software system that was officially signed off in February 2013 and became fully operative from this date. All development costs associated with this software (development costs, legal fees, technical support, project management, etc.) were capitalised and the entire cost is amortised over 15 years from this "go live date".

Useful lives of property, plant and equipment and intangible assets

The Tribunal's management determines the estimated useful life and related depreciation charges for property, plant and equipment and other assets. This estimate is based on the pattern in which the asset's future economic benefits or service potential is expected to be consumed by the Tribunal.

1.5 PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment are tangible non-current assets that are held for use in the production or supply of goods or services, rental to others, or for administrative purposes, and are expected to be used during more than one period.

The cost of an item of property, plant and equipment is recognised as an asset when:

- it is probable that future economic benefits or service potential associated with the item will flow to the Tribunal; and
- the cost of the item can be measured reliably.

Property, plant and equipment is initially measured at cost.

The cost of an item of property, plant and equipment is the purchase price and other costs attributable to bring the asset to the location and condition necessary for it to be capable of operating in the manner intended by management. Trade discounts and rebates are deducted in arriving at the cost.

Where an asset is acquired through a non-exchange transaction, its cost is its fair value as at date of acquisition.

Recognition of costs in the carrying amount of an item of property, plant and equipment ceases when the item is in the location and condition necessary for it to be capable of operating in the manner intended by management.

1.5 PROPERTY, PLANT AND EQUIPMENT (CONTINUED)

Property, plant and equipment is carried at cost less accumulated depreciation and any impairment losses.

Property, plant and equipment are depreciated on the straight-line basis over their expected useful lives to their estimated residual value.

Property, plant and equipment is carried at cost less accumulated depreciation and any impairment losses. The useful lives of items of property, plant and equipment have been assessed as follows:

Item	Depreciation method	Useful lives
Furniture and fixtures	Straight-line	Between 5 and 18 years
Motor vehicles	Straight-line	5 years
Office equipment	Straight-line	Between 5 and 18 years
IT equipment	Straight-line	Between 3 and 10 years
Other leased Assets	Straight-line	Period of lease

The depreciable amount of an asset is allocated on a systematic basis over its useful life.

The depreciation method used reflects the pattern in which the asset's future economic benefits or service potential are expected to be consumed by the Tribunal. The depreciation method applied to an asset is reviewed at least at each reporting date and, if there has been a significant change in the expected pattern of consumption of the future economic benefits or service potential embodied in the asset, the method is changed to reflect the changed pattern. Such a change is accounted for as a change in an accounting estimate.

The Tribunal assesses at each reporting date whether there is any indication that the Tribunal's expectations about the residual value and the useful life of an asset have changed since the preceding reporting date. If any such indication exists, the Tribunal revises the expected useful life and/or residual value accordingly. The change is accounted for as a change in an accounting estimate.

Items of property, plant and equipment are derecognised when the asset is disposed of or when there are no further economic benefits or service potential expected from the use of the asset. The gain or loss arising from the derecognition of an item of property, plant and equipment is included in surplus or deficit when the item is derecognised. The gain or loss arising from the derecognition of an item of property, plant and equipment is determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item.
The Tribunal separately discloses expenditure to repair and maintain property, plant and equipment in the notes to the financial statements (see note).

1.6 INTANGIBLE ASSETS

An asset is identifiable if it either:

- is separable, i.e. is capable of being separated or divided from an entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable assets or liability, regardless of whether the entity intends to do so; or
- arises from binding arrangements (including rights from contracts), regardless of whether those rights are transferable or separable from the Tribunal or from other rights and obligations.

An intangible asset is recognised when:

- it is probable that the expected future economic benefits or service potential that are attributable to the asset will flow to the Tribunal; and
- the cost or fair value of the asset can be measured reliably.

1.6 INTANGIBLE ASSETS (CONTINUED)

The Tribunal assesses the probability of expected future economic benefits or service potential using reasonable and supportable assumptions that represent management's best estimate of the set of economic conditions that will exist over the useful life of the asset.

Where an intangible asset is acquired through a non-exchange transaction, its initial cost at the date of acquisition is measured at its fair value as at that date.

Expenditure on research (or on the research phase of an internal project) is recognised as an expense when it is incurred.

An intangible asset arising from development (or from the development phase of an internal project) is recognised when:

- it is technically feasible to complete the asset so that it will be available for use or sale.
- there is an intention to complete and use or sell it.
- there is an ability to use or sell it.
- it will generate probable future economic benefits or service potential.
- there are available technical, financial and other resources to complete the development and to use or sell the asset.
- the expenditure attributable to the asset during its development can be measured reliably.

Intangible assets are carried at cost less any accumulated amortisation and any impairment losses.

An intangible asset is regarded as having an indefinite useful life when, based on all relevant factors, there is no foreseeable limit to the period over which the asset is expected to generate net cash inflows or service potential. Amortisation is not provided for these intangible assets, but they are tested for impairment annually and whenever there is an indication that the asset may be impaired. For all other intangible assets amortisation is provided on a straight-line basis over their useful life.

The amortisation period and the amortisation method for intangible assets are reviewed at each reporting date.

Reassessing the useful life of an intangible asset with a finite useful life after it was classified as indefinite is an indicator that the asset may be impaired. As a result the asset is tested for impairment and the remaining carrying amount is amortised over its useful life.

Internally generated software programs are initially recognised at cost. Internally generated software is amortised over its useful lifes and tested for impairment annually and impaired if necessary. Other computer softwares are carried at cost less accumulated amortisation and impairment. Software is amortised over its useful life on a stratight-line basis.
Amortisation is provided to write down the intangible assets, on a straight-line basis, to their residual values as follows:

Item	Depreciation method	Useful life
Computer software, internally generated	Straight-line	Between 5 and 15 years
Computer software, other	Straight-line	Between 5 and 15 years
Intangible assets under development	Straight-line	N/A

The Tribunal discloses relevant information relating to assets under construction or development, in the notes to the financial statements (see note).
Intangible assets are derecognised:

- on disposal; or
- when no future economic benefits or service potential are expected from its use or disposal.

The gain or loss arising from the derecognition of intangible assets is included in surplus or deficit when the asset is derecognised.

1.7 FINANCIAL INSTRUMENTS

A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or a residual interest of another entity.

A financial asset is:

- cash;
- a residual interest of another entity; or
- a contractual right to:
  - receive cash or another financial asset from another entity; or
  - exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity.

A financial liability is any liability that is a contractual obligation to:

- deliver cash or another financial asset to another entity; or
- exchange financial assets or financial liabilities under conditions that are potentially unfavourable to the entity.

A financial asset is past due when a counterparty has failed to make a payment when contractually due.

Classification

The Tribunal has the following types of financial assets (classes and category) as reflected on the face of the statement of financial position or in the notes thereto:

Class	Category
Cash and cash equivalents	Financial asset measured at fair value
Trade receivables	Financial asset measured at fair value

The Tribunal has the following types of financial liabilities (classes and category) as reflected on the face of the statement of financial position or in the notes thereto:

Class	Category
Trade payables	Financial liability measured at fair value

1.8 LEASES

A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership. A lease is classified as an operating lease if it does not transfer substantially all the risks and rewards incidental to ownership.

When a lease includes both land and buildings elements, the entity assesses the classification of each element separately.

Finance leases - lessee

Finance leases are recognised as assets and liabilities in the statement of financial position at amounts equal to the fair value of the leased property or, if lower, the present value of the minimum lease payments. The corresponding liability to the lessor is included in the statement of financial position as a finance lease obligation.

1.8 LEASES (CONTINUED)

The discount rate used in calculating the present value of the minimum lease payments is the interest rate implicit in the lease.

Minimum lease payments are apportioned between the finance charge and reduction of the outstanding liability. The finance charge is allocated to each period during the lease term so as to produce a constant periodic rate of on the remaining balance of the liability.

Operating leases - lessee

Operating lease payments are recognised as an expense on a straight-line basis over the lease term. The difference between the amounts recognised as an expense and the contractual payments are recognised as an operating lease asset or liability.

1.9 INVENTORIES

Inventories are initially measured at cost except where inventories are acquired through a non-exchange transaction, then their costs are their fair value as at the date of acquisition. Subsequently inventories are measured at the lower of cost and net realisable value.

Inventories are measured at the lower of cost and current replacement cost where they are held for;

- distribution at no charge or for a nominal charge; or
- consumption in the production process of goods to be distributed at no charge or for a nominal charge.

Current replacement cost is the cost the Tribunal incurs to acquire the asset on the reporting date.

The cost of inventories comprises of all costs of purchase, costs of conversion and other costs incurred in bringing the inventories to their present location and condition.

The cost of inventories is assigned using the first-in, first-out (FIFO) formula. The same cost formula is used for all inventories having a similar nature and use to the Tribunal. Inventory comprise of stationery that shall be consumed within a short-term period in the normal business of the entity and not held for sale.

1.10 CASH AND CASH EQUIVALENTS

Cash comprises cash on hand, such as petty cash.

Cash equivalents are held for the purpose of meeting short-term cash commitments or other purposes.

Cash and cash equivalents comprise bank balances and cash on hand.

1.11 IMPAIRMENT OF NON-CASH-GENERATING ASSETS

Cash-generating assets are assets used with the objective of generating a commercial return. Commercial return means that positive cash flows are expected to be significantly higher than the cost of the asset.

Non-cash-generating assets are assets other than cash-generating assets.

Impairment is a loss in the future economic benefits or service potential of an asset, over and above the systematic recognition of the loss of the asset's future economic benefits or service potential through depreciation (amortisation).

Carrying amount is the amount at which an asset is recognised in the statement of financial position after deducting any accumulated depreciation and accumulated impairment losses thereon.

A cash-generating unit is the smallest identifiable group of assets managed with the objective of generating a commercial return that generates cash inflows from continuing use that are largely independent of the cash inflows from other assets or groups of assets.

Costs of disposal are incremental costs directly attributable to the disposal of an asset, excluding finance costs and income tax expense.

Depreciation (Amortisation) is the systematic allocation of the depreciable amount of an asset over its useful life.

Fair value less costs to sell is the amount obtainable from the sale of an asset in an arm's length transaction between knowledgeable, willing parties, less the costs of disposal.

Recoverable service amount is the higher of a non-cash-generating asset's fair value less costs to sell and its value in use.

Useful life is either:

- the period of time over which an asset is expected to be used by the Tribunal; or
- the number of production or similar units expected to be obtained from the asset by the Tribunal.

Identification

When the carrying amount of a non-cash-generating asset exceeds its recoverable service amount, it is impaired.

The Tribunal assesses at each reporting date whether there is any indication that a non-cash-generating asset may be impaired. If any such indication exists, the Tribunal estimates the recoverable service amount of the asset.

Irrespective of whether there is any indication of impairment, the entity also tests a non-cash-generating intangible asset with an indefinite useful life or a non-cash-generating intangible asset not yet available for use for impairment annually by comparing its carrying amount with its recoverable service amount. This impairment test is performed at the same time every year. If an intangible asset was initially recognised during the current reporting period, that intangible asset was tested for impairment before the end of the current reporting period.

Value in use

Value in use of non-cash-generating assets is the present value of the non-cash-generating assets remaining service potential.

The present value of the remaining service potential of a non-cash-generating assets is determined using the following approach:

1.11 IMPAIRMENT OF NON-CASH-GENERATING ASSETS (CONTINUED)

Recognition and measurement

If the recoverable service amount of a non-cash-generating asset is less than its carrying amount, the carrying amount of the asset is reduced to its recoverable service amount. This reduction is an impairment loss.

An impairment loss is recognised immediately in surplus or deficit.

Any impairment loss of a revalued non-cash-generating asset is treated as a revaluation decrease.

When the amount estimated for an impairment loss is greater than the carrying amount of the non-cash-generating asset to which it relates, the Tribunal recognises a liability only to the extent that is a requirement in the Standards of GRAP.

After the recognition of an impairment loss, the depreciation (amortisation) charge for the non-cash-generating asset is adjusted in future periods to allocate the non-cash-generating asset's revised carrying amount, less its residual value (if any), on a systematic basis over its remaining useful life.

Reversal of an impairment loss

The Tribunal assesses at each reporting date whether there is any indication that an impairment loss recognised in prior periods for a non-cash-generating asset may no longer exist or may have decreased. If any such indication exists, the Tribunal estimates the recoverable service amount of that asset.

An impairment loss recognised in prior periods for a non-cash-generating asset is reversed if there has been a change in the estimates used to determine the asset's recoverable service amount since the last impairment loss was recognised. The carrying amount of the asset is increased to its recoverable service amount. The increase is a reversal of an impairment loss. The increased carrying amount of an asset attributable to a reversal of an impairment loss does not exceed the carrying amount that would have been determined (net of depreciation or amortisation) had no impairment loss been recognised for the asset in prior periods.

A reversal of an impairment loss for a non-cash-generating asset is recognised immediately in surplus or deficit. Any reversal of an impairment loss of a revalued non-cash-generating asset is treated as a revaluation increase.

After a reversal of an impairment loss is recognised, the depreciation (amortisation) charge for the non-cash-generating asset is adjusted in future periods to allocate the non-cash-generating asset's revised carrying amount, less its residual value (if any), on a systematic basis over its remaining useful life.

1.12 EMPLOYEE BENEFITS

Post-employment benefits: Defined contribution plans

Recognition and measurement

When an employee has rendered service to the entity during a reporting period, the entity recognises the contribution payable to a defined contribution plan in exchange for that service:
(a) as an expense. When contributions to a defined contribution plan are not expected to be settled wholly before twelve months after the end of the reporting period in which the employees render the related service, they are be discounted using the discount rate as specified.

1.13 PROVISIONS AND CONTINGENCIES

Provisions are recognised when:

- the entity has a present obligation as a result of a past event;
- it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; and
- a reliable estimate can be made of the obligation.

The amount of a provision is the best estimate of the expenditure expected to be required to settle the present obligation at the reporting date.
Where the effect of time value of money is material, the amount of a provision is the present value of the expenditures expected to be required to settle the obligation.

Provisions are reviewed at each reporting date and adjusted to reflect the current best estimate. Provisions are reversed if it is no longer probable that an outflow of resources embodying economic benefits or service potential will be required, to settle the obligation.

A provision is used only for expenditures for which the provision was originally recognised. Provisions are not recognised for future operating surplus (deficit).
If an entity has a contract that is onerous, the present obligation (net of recoveries) under the contract is recognised and measured as a provision.
Contingent assets and contingent liabilities are not recognised. Contingencies are disclosed in note 25.

Determining whether an outflow of resources is probable in relation to financial guarantees requires judgment. Indications that an outflow of resources may be probable are:

- financial difficulty of the debtor
- defaults or delinquencies in interest and capital repayments by the debtor;
- a decline in prevailing economic circumstances (e.g. high interest rates, inflation and unemployment) that impact on the ability of entities to repay their obligations.
- the amount determined using in the Standard of GRAP on Provisions, Contingent Liabilities and Contingent Assets; and
- the amount of the fee initially recognised less, where appropriate, cumulative amortisation recognised in accordance with the Standard of GRAP on Revenue from Exchange Transactions.

1.14. COMMITMENTS

Items are classified as commitments when the Tribunal has committed itself to future transactions that will normally result in the outflow of cash.

Disclosures are required in respect of unrecognised contractual commitments.

Commitments represent goods/services that have been ordered, but no delivery has taken place at the reporting date. These amounts are not recognised in the Statement of Financial Position as a liability or as expenditure in the Statetement of Financial Performance as the Annual Financial Statements are prepared on an accrual basis of accounting, but are however disclosed in the Notes to the Annual Financial Statements.

1.15. REVENUE FROM EXCHANGE TRANSACTIONS

Revenue is the gross inflow of economic benefits or service potential during the reporting period when those inflows result in an increase in net assets, other than increases relating to contributions from owners.

An exchange transaction is one in which the entity receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of goods, services or use of assets) to the other party in exchange.

1.15. REVENUE FROM EXCHANGE TRANSACTIONS (CONTINUED)

Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction.

Measurement

Revenue is measured at the fair value of the consideration received or receivable, net of trade discounts and volume rebates.

Rendering of services

When the outcome of a transaction involving the rendering of services can be estimated reliably, revenue associated with the transaction is recognised by reference to the stage of completion of the transaction at the reporting date. The outcome of a transaction can be estimated reliably when all the following conditions are satisfied:

- the amount of revenue can be measured reliably;
- it is probable that the economic benefits or service potential associated with the transaction will flow to the Tribunal;
- the stage of completion of the transaction at the reporting date can be measured reliably; and
- the costs incurred for the transaction and the costs to complete the transaction can be measured reliably.

Interest income

Revenue arising from the use by others of entity assets yielding interest, royalties and dividends or similar distributions is recognised when:

- It is probable that the economic benefits or service potential associated with the transaction will flow to the entity, and
- The amount of the revenue can be measured reliably.

Interest is recognised using the effective interest rate method for financial instruments, and using the nominal interest rate method for statutory receivables. Interest levied on transactions arising from exchange or non-exchange transactions is classified based on the nature of the underlying transaction.

1.16 REVENUE FROM NON-EXCHANGE TRANSACTIONS

Revenue comprises gross inflows of economic benefits or service potential received and receivable by the Tribunal, which represents an increase in net assets, other than increases relating to contributions from owners.

Conditions on transferred assets are stipulations that specify that the future economic benefits or service potential embodied in the asset is required to be consumed by the recipient as specified or future economic benefits or service potential must be returned to the transferor.

Non-exchange transactions are transactions that are not exchange transactions. In a non-exchange transaction, an Tribunal either receives value from another Tribunal without directly giving approximately equal value in exchange, or gives value to another Tribunal without directly receiving approximately equal value in exchange.
Restrictions on transferred assets are stipulations that limit or direct the purposes for which a transferred asset may be used, but do not specify that future economic benefits or service potential is required to be returned to the transferor if not deployed as specified.

Stipulations on transferred assets are terms in laws or regulation, or a binding arrangement, imposed upon the use of a transferred asset by entities external to the reporting Tribunal.

1.17. COMPARATIVE FIGURES

Where necessary, comparative figures will be reclassified to conform to changes in presentation in the current year.

18. FRUITLESS AND WASTEFUL EXPENDITURE

In terms of section 55(2)(b)(i) of the Public Finance Management Act, 1999 the financial statements must include particulars of any fruitless and wasteful expenditure.

Fruitless and wasteful expenditure is expenditure made in vain and would have been avoidaded had reasonable care been exercised. All unauthorised, irregular, fruitless and wasteful expenditure is charged against income in the period in which they are incurred.

1.19. IRREGULAR EXPENDITURE

Irregular expenditure as defined in section 1 of the PFMA is expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including:

a. this Act; or
b. the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of the Act; or
c. any provincial legislation providing for procurement procedures in that provincial government.

National Treasury practice note no. 4 of 2008/2009 which was issued in terms of sections 76(1) to 76(4) of the PFMA requires the following (effective from 1 April 2008).

Irregular expenditure that was incurred and identified during the current financial year and which was condoned before year end and/or before finalisation of the financial statements is recorded appropriately in the irregular expenditure register. In such an instance, no further action is required with the exception of updating the note to the financial statements.

Irregular expenditure that was incurred and identified during the current financial year and for which condonement is being awaited at year end is recorded in the irregular expenditure register. No further action is required with the exception of updating the note to the financial statements.

Where irregular expenditure was incurred in the previous financial year and is only condoned in the following financial year, the register and the disclosure note to the financial statements is updated with the amount condoned.

Irregular expenditure that was incurred and identified during the current financial year and which was not condoned by the National Treasury or the relevant authority is recorded appropriately in the irregular expenditure register. If liability for the irregular expenditure can be attributed to a person, a debt account must be created if such a person is liable in law. Immediate steps are thereafter taken to recover the amount from the person concerned. If recovery is not possible, the Accounting Officer or Accounting Authority may write off the amount as debt impairment and disclose such in the relevant note to the financial statements. The irregular expenditure register is updated accordingly. If the irregular expenditure has not been condoned and no person is liable in law, the expenditure related thereto remains against the relevant programme/expenditure item, is disclosed as such in the note to the financial statements and updated accordingly in the irregular expenditure register.

1.20. BUDGET INFORMATION

Entity are typically subject to budgetary limits in the form of appropriations or budget authorisations (or equivalent), which is given effect through authorising legislation, appropriation or similar.

General purpose financial reporting by entity shall provide information on whether resources were obtained and used in accordance with the legally adopted budget.

The approved budget is prepared on a accrual basis and presented by economic classification linked to performance outcome objectives.

The approved budget covers the fiscal period from 2023/04/01 to 2024/03/31.

The budget for the economic entity includes all the entities approved budgets under its control.

The annual financial statements and the budget are on the same basis of accounting therefore a comparison with the budgeted amounts for the reporting period have been included in the Statement of comparison of budget and actual amounts.

1.21. RELATED PARTIES

A related party is a person or an entity with the ability to control or jointly control the other party, or exercise significant influence over the other party, or vice versa, or an entity that is subject to common control, or joint control.

The Tribunal operates in an economic sector currently dominated by entities directly or indrectly owned by the South African government. As a consequence of the constitutional independance of the three spheres of government in South Africa, only entities within the national sphere of government are considered to be related parties.

Management are those persons responsible for planning, directing and controlling the activities of the Tribunal, including those charged with the governance of the Tribunal in accordance with legislation, in instances where they are required to perform such functions.

Close members of the family of a person are those family members who may be expected to influence, or be influenced by that person in their dealings with the Tribunal.

Only transactions with related parties not at arms length or not in the ordinary course of business are disclosed.

1.22. EVENTS AFTER REPORTING DATE

Events after reporting date are those events, both favourable and unfavourable, that occur between the reporting date and the date when the financial statements are authorised for issue. Two types of events can be identified:

- those that provide evidence of conditions that existed at the reporting date (adjusting events after the reporting date); and
- those that are indicative of conditions that arose after the reporting date (non-adjusting events after the reporting date).

The Tribunal will adjust the amount recognised in the financial statements to reflect adjusting events after the reporting date once the event occurred.

The Tribunal will disclose the nature of the event and an estimate of its financial effect or a statement that such estimate cannot be made in respect of all material non-adjusting events, where non-disclosure could influence the economic decisions of users taken on the basis of the financial statements.

2. NEW STANDARDS AND INTERPRETATIONS

2.1 STANDARDS AND INTERPRETATIONS EFFECTIVE AND ADOPTED IN THE CURRENT YEAR

In the current year, the entity has adopted the following standards and interpretations that are effective for the current financial year and that are relevant to its operations:

Standard/ Interpretation:	Effective date: Years beginning on or after	Expected impact:
• iGRAP 21: The Effect of Past Decisions on Materiality	01 April 2023	The impact is not material.
• GRAP 25 (as revised): Employee Benefits	01 April 2023	The impact is not material.
• iGRAP 7 (as revised): Limit on defined benefit asset, minimum funding requirements and their interaction	01 April 2023	The impact is not material.
• GRAP 2020: Improvements to the Standards of GRAP 2020	01 April 2023	The impact is not material.
• Guideline: Guideline on Accounting for Landfill Sites	01 April 2023	The impact is not material.
• GRAP 1 (amended): Presentation of Financial Statements (Materiality)		The impact is not material.

2.2 STANDARDS AND INTERPRETATIONS ISSUED, BUT NOT YET EFFECTIVE

The entity has not applied the following standards and interpretations, which have been published and are mandatory for the entity's accounting periods beginning on or after 01 April 2024 or later periods:

Standard/ Interpretation:	Effective date: Years beginning on or after	Expected impact:
• iGRAP 22 Foreign Currency Transactions and Advance Consideration	01 April 2025	Unlikely there will be a material impact
• GRAP 104 (as revised): Financial Instruments	01 April 2025	Unlikely there will be a material impact

3. INVENTORIES

	2024 '000	2023 '000
Consumable stores	24	23

Inventories relates to consumable stores such as groceries and stationary used by the Tribunal. In comparison to the prior year, the increase in the consumable stores is due to the Tribunal employees returning full time back to the office which had resulted in more consumables being kept on hand towards the last quarter of the financial year.

4. RECEIVABLES FROM EXCHANGE TRANSACTIONS

	2024 '000	2023 '000
Trade Receivables	1,869	2,497

Included in trade receivables is the amount owing by the Competition Commission (Commission) for filing fees. The decrease in the year end balance as compared to the prior year is due to both the improved collection rate over the current year from the Commission and an overall decrease in filing fees received due to reduced merger activity.

Trade receivables are unsecured, bear no interest and are expected to be settled within 30 days of the date of the invoice. The effect of discounting was considered and found to be immaterial since the carrying value of receivables approximates its fair value.

5. PREPAYMENTS

Prepayments	1,050	673

Prepayments relate to IT related warranties and licence expenditure that are paid for in advance and expensed on a monthly basis.

6. CASH AND CASH EQUIVALENTS

Cash and cash equivalents comprise cash that is held with registered banking institutions. As the interest rate risk at these institutions is deemed to be insignificant, the carrying amount of these assets approximates their fair value.

There are no restrictions on the use of cash.		
Cash on hand	5	7
Bank balances	14,175	22,944
	14,180	**22,951**

Cash on hand relates to petty cash held by the Tribunal.

Bank balances relates to cash held in two bank accounts, ABSA used primarily for operational transactions and Corporation or Public Deposits (CPD) which is an investment fund operated by the Reserve Bank.

7. PROPERTY, PLANT AND EQUIPMENT

	2024			2023		
	Cost / Valuation	Accumulated depreciation and accumulated impairment	Carrying value	Cost / Valuation	Accumulated depreciation and accumulated impairment	Carrying value
Furniture and fixtures	1,387	(838)	549	1,285	(802)	483
Motor vehicles	205	(35)	170	205	(24)	181
Office equipment	237	(41)	196	35	(17)	18
IT equipment	2,089	(965)	1,124	1,881	(930)	951
Photocopiers (Leased)	439	(218)	221	439	(71)	368
Total	**4,357**	**(2,097)**	**2,260**	**3,845**	**(1,844)**	**2,001**

Reconciliation of property, plant and equipment - 2024

	Opening balance	Additions	Disposals	Depreciation	Total
Furniture and fixtures	483	170	(12)	(92)	549
Motor vehicles	181	-	-	(11)	170
Office equipment	18	202	-	(24)	196
IT equipment	951	509	(11)	(325)	1,124
Photocopiers (leased)	368	-	-	(147)	221
	2,001	**881**	**(23)**	**(599)**	**2,260**

7. PROPERTY, PLANT AND EQUIPMENT (CONTINUED)

Reconciliation of property, plant and equipment - 2023

	Opening balance	Additions through transfer of functions / mergers	Disposals	Depreciation	Total
Furniture and fixtures	530	44	(4)	(87)	483
Motor vehicles	193	-	-	(12)	181
Office equipment	10	12	(3)	(1)	18
IT equipment	542	721	(14)	(298)	951
Photocopiers (leased)	25	439	-	(96)	368
	1,300	**1,216**	**(21)**	**(494)**	**2,001**

Pledged as security

During the financial year, there was no property, plant or equipment pledged as security.

The Tribunal has not entered into any contractual commitments to acquire new property, plant and equipment.

	2024 '000	2023 '000
Assets subject to finance lease (Net carrying amount)		
Photocopiers	221	368
Expenditure incurred to repair and maintain property, plant and equipment		
Expenditure incurred to repair and maintain property, plant and equipment included in Statement of Financial Performance		
General expenses	67	94

A register is available for inspection at the registered office of the entity.

8. INTANGIBLE ASSETS

	2024			2023		
	Cost / Valuation	Accumulated depreciation and accumulated impairment	Carrying value	Cost / Valuation	Accumulated depreciation and accumulated impairment	Carrying value
Computer software, internally generated	4,713	(3,444)	1,269	4,713	(3,115)	1,598
Computer software, acquired	396	(222)	174	396	(181)	215
Intangible assets under development	1,010	-	1,010	-	-	-
Total	**6,119**	**(3,666)**	**2,453**	**5,109**	**(3,296)**	**1,813**

Reconciliation of intangible assets - 2024

	Opening balance	Internally generated	Amortistion	Total
Computer software, internally generated	1,598	-	(329)	1,269
Computer software, other	215	-	(41)	174
Intangible assets under development	-	1,010	-	1,010
	1,813	**1,010**	**(370)**	**2,453**

Reconciliation of intangible assets - 2023

	Opening balance	Disposals	Amortistion	Total
Computer software, internally generated	1,927	-	(329)	1,598
Computer software, other	414	(116)	(83)	215
	2,341	**(116)**	**(412)**	**1,813**

Pledged as security

During the financial year, there was no intangible assets pledged as security.

The Tribunal has not entered into any contractual commitments to acquire new intangible assets.
Intangible assets under development relates to the current development of the Tribunal website. The website development includes an improved search functionality to assist with the communication of decisions and reasons issued on matters. This will assist in improving service potential of the Tribunal and delivering on the adjudicative mandate of the Tribunal.

9. FINANCE LEASE OBLIGATION

	2024 '000	2023 '000
Minimum lease payments due		
- within one year	167	168
- in second to fifth year inclusive	79	248
	246	416
less: future finance charges	(16)	(48)
Present value of minimum lease payments	**230**	**368**
Present value of minimum lease payments due		
- within one year	152	138
- in second to fifth year inclusive	78	230
	230	**368**
Non-current liabilities	78	230
Current liabilities	152	138
	230	**368**

The Tribunal is leasing two photocopiers under a finance lease. There are no restrictions imposed on the Tribunal in terms of the leases. There are no escalation clauses reflected in the lease agreements. The obligation under the finance lease are secured by the lessor's title to the leased assets. The leases can be extended for a further period after the initial period has expired. The average lease period is three years and the average effective borrowing rate used is 9.75% per annum. The effect of the change in interest rates were considered and the impact was immaterial therefore no adjustment was made.

10. PAYABLES FROM EXCHANGE TRANSACTIONS

Trade payables	121	214
Other accruals	1,916	1,090
	2,037	**1,304**

Trade payables are unsecured, bear no interest and are expected to be settled within 30 days from the acceptance of the invoice. The effect of discounting was considered and found to be immaterial since the carrying value of trade and other creditors approximates its fair value.

During the period under there were no breaches of contracts or agreements held with the Tribunal and it was not necessary to negotiate any new terms with suppliers.

11. PROVISIONS

Reconciliation of provisions - 2024

	Opening balance	Additions	Utilised during the year	Total
Leave provision	1,969	1,255	(453)	2,771
Performance bonus	3,139	2,405	(2,667)	2,877
	5,108	**3,660**	**(3,120)**	**5,648**

Reconciliation of provisions - 2023

	Opening balance	Additions	Utilised during the year	Total
Leave provision	1,671	1,062	(764)	1,969
Performance bonus	-	3,139	-	3,139
	1,671	**4,201**	**(764)**	**5,108**

The leave provision is calculated based on the leave due and daily salary paid to an employee as at the end of the financial year. This leave is paid out if and when an employee leaves the entity. The uncertainty with regard to the provision is that there is no indication as to whether or when an employee will leave the entity. In addition this leave may be used or may continue to accumulate during the next financial year. The leave policy allows for leave to be taken for a further six months after a 12 month cycle. If the accumulated leave is not taken, the leave is forfeited.

The performance bonus process for the 2023/24 financial year has not been concluded. Based on this, a provision was therefore raised instead of an accrual due to the uncertainty in the value to be raised. The provision estimated was based on the current year estimated ratings and the current year packages. For new employees that qualify the estimated rates will be based on the Remuneration Policy and these will be pro-rated for the months employed.

12. EMPLOYEE BENEFIT OBLIGATIONS

Defined contribution plans

The Tribunal Pension Fund, which is governed by the Pensions Fund Act of 1956 as amended, is a compulsory defined contribution plan for all employees in the Tribunal. The fund is administered by Sanlam Retirement Fund Administrators. The Tribunal as a participating employer on the Sanlam Umbrella Fund. The scheme offers the members various investment options for their pension fund contributions. As an insured fund, the Sanlam Umbrella Fund and thus the Competition Tribunal as participating employer, complies with regulation 28 of the Pension Fund Act of 1956 (see Note 17).

13. FEES EARNED

	2024 '000	2023 '000
Filing fees earned from cases registered	15,461	18,472

Fees earned relates to filing fees earned from mergers filed at the Commission in terms of the MOA with the Commission whereby the Tribunal receives 30% of the fees from large mergers and 5% of intermediate mergers fees filed. The decrease in fees earned as compared to the prior year is as a result of a decrease in cases filed during the current financial year. This is an indication that economic activity is decreasing therefore merger activity is decreasing.

14. OTHER INCOME

Other income	181	22

Included in other income for 2022/23 is the cash-equivalent insurance replacement of a laptop that was stolen during the financial year.

Included in other income for 2023/24 is SETA refunds for training and development and printing costs.

15. INVESTMENT REVENUE

Interest revenue		
Bank deposits	2,646	1,865

Interest received relates to interest earned on the two bank accounts of the Tribunal. The increase in interest earned as compared to the prior year, was mainly due to both an increase in rates over the financial year and a higher retention of funds from the prior year.

16. GOVERNMENT GRANTS & SUBSIDIES

Operating grants		
Department of Trade, Industry and Competition	38,433	42,286

An operating grant is received directly from the Department of Trade, Industry and Competition by the first quarter of the financial year. The decrease from the prior year is linked to a budget reduction that was imposed across all entities for the Medium Term Framework.

17. EMPLOYEE RELATED COSTS

	2024 '000	2023 '000
Basic salaries	21,344	18,361
Performance bonus and service awards	2,473	2,732
Medical aid - company contributions	1,534	995
Statutory contributions	454	251
Other payroll levies	-	1
Group Life Insurance	737	356
Other salary related costs	613	415
Defined contribution pension plan expense	2,660	1,281
Executive Management	14,375	13,374
	44,190	**37,766**

The variance in employee costs is due to a combination of both annual inflationary increases and new appointments in the financial year. There were eight positions that were filled during the financial year, which included five positions within the Case Management division.

18. DEPRECIATION AND AMORTISATION

Property, plant and equipment	598	494
Intangible assets	370	412
	968	**906**

Overall increase is as a result of new equipment that was purchased during the financial year.

19. FINANCE COSTS

Finance lease	30	17

The Tribunal is leasing two photocopiers under a finance leases. The average lease period is three years and the average effective borrowing rate used is 9.75% per annum. The effect of the change in interest rates during the year were considered and the impact was immaterial therefore no adjustments were made.

20. ADMINISTRATIVE EXPENSES

	2024 '000	2023 '000
Audit and Risk Committee members' fees	266	201
General expenses	1,086	830
External audit fees	703	685
Internal audit fees	435	425
Local travel and subsistence	233	98
Building occupation	5,259	6,830
IT expenses	2,140	1,811
	10,122	**10,880**

Audit and Risk Committee members' fees - Increase in fees is mainly due to the appointment of two committee members towards the end of the 2022/23 financial year.

General expenses - Increase in mainly due to an increase in operational expenditure due to all staff returning on a full time basis back to South Africa.

Travel and subsistence - Increase in expenditure is mainly due to an increase in local travel due to resumption of return to physical working arrangements.

Building occupation - For the 2023/24 financial year, the rental payable to dtic was renegotiated down by about 8%, with a CPI related inflatory increase in the next financial year.

IT expenses - Increase in IT related expenses is mainly due to both the increase in the number of users within the Tribunal and an increase in maintenance of the case management system.

21. LOSS ON DISPOSAL OF ASSETS

Property, plant and equipment	23	137

Certain computer equipment and furniture were disposed of during the year as they were obsolete and no longer in good working condition.

Included in the 2022/23 amount is two laptops that were stolen and replaced through insurance.

22. OTHER OPERATING EXPENSES

	2024 '000	2023 '000
Consulting and professional fees	1,900	2,571
Travel and training related costs	2,274	1,110
Fees paid to part-time Tribunal members	6,350	7,674
Legal fees	47	-
Maintenance, repairs and running costs	74	94
	10,645	**11,449**

Consulting and professional fees - Included in the prior year is the consultant fees which were incurred for the organisational review which was concluded in the 2022/23 financial year.

Travel and training related costs - The increase in the expenditure is mainly due to an increase in the number of conferences and training opportunities for the financial year, as compared to the previous financial year. In the recent years, these sessions were held remotely due to strict COVID protocols and had recommenced during the current financial year.

23. CASH (USED IN) GENERATED FROM OPERATIONS

(Deficit) surplus	(9,257)	1,490
Adjustments for:		
Depreciation and amortisation	968	906
Gain on sale of assets and liabilities	23	137
Movements in provisions	540	3,437
Other income - Insurance refund	-	(22)
Other non-cash items	1	-
Changes in working capital:		
Inventories	(1)	(12)
Receivables from exchange transactions	628	(1,583)
Prepayments	(377)	(192)
Payables from exchange transactions	735	(741)
	(6,740)	**3,420**

24. COMMITMENTS

	2024 '000	2023 '000
Authorised expenditure		
Already contracted for but not provided for		
• Contractual expenditure	7,378	2,579
Not yet contracted for and authorised		
• Authorised orders	2,751	116
Total operational commitments		
Already contracted for but not provided for	7,378	2,579
Not yet contracted for and authorised	2,751	116
	10,129	**2,695**

Operating leases - as lessee (expense)		
Minimum lease payments due		
- within one year	5,539	5,259
- in second to fifth year inclusive	2,770	-
	8,309	**5,259**

Operating lease payments represent rentals payable by the Tribunal for its office property. At the end of March 2024, the lease agreement was extended further by another 18 months. No contingent rent is payable.

25. CONTINGENT LIABILITIES

In terms of Section 53(3) of the PFMA, a public entity may not accumulate surplus funds without approval from the National Treasury. Approval will be requested from the National Treasury to retain estimated cash surpluses amounting to R9.3 million to fund projects in the future financial years. As approval has not yet been granted, this is reflected as a contingent liability.

The contingent liability is raised based on the assessed likelihood of the retention of surplus. Over the last few financial years, the Tribunal had motivated strongly for the retention which was subsequently approved by National Treasury.

26. RELATED PARTIES

		2024 '000	2023 '000
Relationships			
Public entity in the National Sphere	The Competition Commission		
National department in the National Sphere	The Department of Trade, Industry and Competition		
Management committee members	Members of key management		
Related party balances			
Amounts included in Trade receivable (Trade Payable) regarding related parties			
Filing fees due from the Commission		1,350	2,354
Employee costs due from the Commission		9	-
Telephone costs due to dtic		(1)	-
Related party transactions income/(expenditure)			
The Competition Commission			
Filing Fees		15,461	18,472
Facility Fees		(728)	(728)
Settlement of staff loans from the Commission		9	-
The Department of Trade, Industry and Competition			
Unitary payments		(5,259)	(6,830)
Administrative costs		(13)	(11)
The Department of Trade, Industry and Competition			
Government grant		38,433	42,286

26. RELATED PARTIES (CONTINUED)

Remuneration of management

Management class: Executive management

2024

Name	Basic salary	Bonuses and performance related payments	Other short-term employee benefits	Termination benefits	Other long-term benefits	Other benefits received	Total
Full-time member/Chairperson: M Mazwai	3,340	234	22	-	35	59	3,690
Full-time member/Deputy Chairperson: L Mncube	3,056	206	22	-	32	77	3,393
Full-time member: A Wessels	2,833	203	22	-	30	63	3,151
Chief Operating Officer: G Qotywa (Resigned July 2023)	833	54	7	77	9	17	997
Chief Operating Officer: L Mabidikane (Appointed January 2024 & Resigned 31 March 2024)	565	-	5	18	6	13	607
Chief Financial Officer: S Moonsamy (Note 1)	2,445	-	22	-	24	47	2,538
	13,072	**697**	**100**	**95**	**136**	**276**	**14,376**

Note 1 - S Moonsamy was appointed as the Acting Chief Operating Officer for the period August 2023 until December 2023.

2023

Name	Basic salary	Bonuses and performance related payments	Other short- term employee benefits	Termination benefits	Other long-term benefits	Other benefits received	Total
Full-time member/Chairperson: M Mazwai	3,322	227	22	-	31	52	3,654
Full-time member/Deputy Chairperson: L Mncube	616	200	4	-	9	9	838
Full-time member: Y Carrim (Resigned December 2022)	1,676	-	15	369	20	34	2,114
Full-time member: A Wessels	3,041	197	22	-	29	47	3,336
Chief Operating Office: O Josie (Resigned August 2022)	937	-	17	335	14	18	1,321
Chief Operating Officer: G Qotywa (Appointed October 2022)	1,179	152	11	-	12	24	1,378
Chief Financial Officer: S Moonsamy (Appointed November 2022)	853	-	8	-	9	16	886
	11,624	**776**	**99**	**704**	**124**	**200**	**13,527**

27. CHANGE IN ESTIMATE

Property, plant and equipment

In the current period, management has extended the estimate of the useful life of some assets with the intention of utilisation of the asset condition to the maximum at the Tribunal. Further to this, there were other assets that could be used for a longer period and therefore the useful life was extended. The effect of this revision did not have an impact on the depreciation for the current year.

28. FINANCIAL RISK MANAGEMENT

Financial risk management

Liquidity risk

The entity's risk to liquidity is a result of the funds available to cover future commitments. The entity manages liquidity risk through an ongoing review of future commitments and credit facilities.

At 31 March 2024	Less than 1 year	Between 1 and 2 years	Between 2 and 5 years	Over 5 years
Finance lease	152	78	-	-
Trade and other payables	2,037	-	-	-
At 31 March 2024	**Less than 1 year**	**Between 1 and 2 years**	**Between 2 and 5 years**	**Over 5 years**
Finance lease	138	230	-	-
Trade and other payables	1,304	-	-	-

Credit risk

Credit risk consists mainly of cash deposits, cash equivalents, derivative financial instruments and trade debtors. The entity only deposits cash with major banks with high quality credit standing and limits exposure to any one counter-party.

The Tribunal trades only with recognised, creditworthy third parties. It is the Tribunal's policy that all customers who wish to trade on credit terms are subject to credit verification procedures. In addition, receivables balances are monitored on an ongoing basis with the result that the Tribunal's exposure to bad debts is not significant. The maximum exposure is the carrying amounts as disclosed in Note 4. There is no significant concentration of credit risk within the Tribunal.

With respect to credit risk arising from the other financial assets of the Tribunal, which comprise cash equivalents, the Tribunal's exposure to credit risk arises from default of the counterparty, with a maximum exposure equal to the carrying amount of these instruments. The Tribunal's cash equivalents are placed with high credit quality financial institutions therefore the credit risk with respect to cash and cash equivalents is limited.

Financial assets exposed to credit risk at year end were as follows:

Financial instrument	2024 '000	2023 '000
Cash and cash equivalents	14,180	22,951
Receivables	1,869	2,497
Market risk		

Interest rate risk

The Tribunal is exposed to interest rate changes in respect of returns on its investments with financial institutions and interest payable on financial leases contracted with outside parties.

The Tribunal's exposure to interest risk is managed by investing surplus funds in the Corporation for Public Deposits as the interest rate is favourable and still allows easy access to funds both in terms of movement from and movement to.

29. GOING CONCERN

We draw attention to the fact that at 31 March 2024, the entity had an accumulated surplus (deficit) of R13,921 and that the Tribunal's total assets exceed its liabilities by R13,921.

The annual financial statements have been prepared on the basis of accounting policies applicable to a going concern. This basis presumes that funds will be available to finance future operations and that the realisation of assets and settlement of liabilities, contingent obligations and commitments will occur in the ordinary course of business.

The ability of the Tribunal to continue as a going concern is dependent on a number of factors. The most significant of these is that the Department of Trade, Industry and Competition continue to provide funding for the ongoing operations for the Tribunal.

30. EVENTS AFTER THE REPORTING DATE

There were no subsequent events identified during the year under review.

31. IRREGULAR EXPENDITURE

	2024 '000	2023 '000
Opening balance as previously reported	92	-
Opening balance as restated	**92**	**-**
Add: Irregular Expenditure - current	-	92
Closing balance	**92**	**92**
Irregular expenditure is presented inclusive of VAT		

31. IRREGULAR EXPENDITURE (CONTINUED)

The irregular expenditure which incurred in the 2022/23 financial year is as result of using a single broker to obtain three quotes for insurance services. It relates to the Tribunal's previously accepted practice of obtaining three quotations through a broker instead of three separate quotations. The broker had no financial interest in the three quotation process and no service providers were disadvantaged by the process. The process was classified as and approved as a deviation from normal supply chain processes. The above item is currently awaiting condonement from National Treasury.

Subsequent to the above, the Tribunal has followed a three quote process for insurance purposes which will not result in the reoccurrence of irregular expenditure.

32. SEGMENT INFORMATION

General information

Identification of segments

The Tribunal is organised and reports to management on the basis of only one functional area, mainly the adjudication of cases and one geographical location. The segment is organised around the type of service delivered and the target market. Management uses this segment for determining strategic objectives, which includes both the adjudication and operational requirements. Segment was aggregated for reporting purposes and no further disclosure requirements as per GRAP 18 is required.

33. INCOME TAX EXEMPTION

The Tribunal is currently exempt from Income Tax in terms of section 10 (1) (a) of the Income Tax Act, 1962.

34. BUDGET DIFFERENCES

Material differences between budget and actual amounts

Filing fees - The decrease in filing fees is as a result of an increase in the mergers filed with the Commission and an overall decrease in merger activity for the financial year.
Government grant - The decrease in the grant allocation was as a result of a entity-wide budget reduction of 10% by **the dtic**. In addition, this reduction was further imposed across the Medium Term Framework budgets.

Interest received - Increase in interest received is due to an overall increase in interest rates and an increase in the deposited funds for the financial year as the grant allocation was received in the beginning of the financial year and had earned interest throughout the year.

Employee related costs - Overall increase is mainly due to both the appointment of senior officials towards the end of the previous financial year such as the Chief Financial Officer, Senior Competition Law Counsel and the Deputy Chairperson. In addition, there were employees appointed during the current financial year, such as four Senior Case Managers and two Case Managers.

Celebrating 25 Years of Adjudication

Celebrating 25 Years of Adjudication

Celebrating 25 Years of Adjudication

Celebrating 25 Years of Adjudication

Celebrating 25 Years of Adjudication

Celebrating 25 Years of Adjudication

Appendix 1: Large mergers approved with public interest conditions

	Parties	Conditions imposed
1	Hollywood Sportsbook Holdings (Pty) Ltd and Kenilworth Racing (Pty) Ltd	• Employment – moratorium on merger related retrenchments
2	Foschini Retail Group (Pty) Ltd and That Portion of the Business Conducted Under the Street Fever Business Name	• Employment – moratorium on merger related retrenchments • Localisation of procurement • HDP and SMME participation
3	Unitrans Supply Chain Solutions (Pty) Ltd and the Transport Business of RCL Food and Sugar and Milling (Pty) Ltd	• Employment – moratorium on merger related retrenchments
4	Clicks Investment (Pty) Ltd and Sorbet Holdings (Pty) Ltd	• Greater spread of ownership • Training and skills development • HDP participation
5	EMIF II Investment (Pty) Ltd and Vector Logistics (Pty) Ltd	• Supplier development • ESOP • Employment - moratorium on merger related retrenchments
6	Pioneer Foods (Pty) Ltd and Future Life Health Products (Pty) Ltd	• ESOP
7	K2023645019 (South Africa) (Pty) Ltd, a SPV Controlled by RMB Ventures Eight (Pty) Ltd and Bopa Moruo Fund 2 (Pty) Ltd, And Aurex Holdings (RF) (Pty) Ltd	• ESOP
8	CFAO Motors (Pty) Ltd and William Simpson Cars (Pty) Ltd	• Employment – moratorium on merger related retrenchments
9	Commercial Cold Holdings (Pty) Ltd and Sequence Logistics Holdings (Pty) Ltd	• Employment – moratorium on merger related retrenchments
10	Flanagan and Gerard Frontiers (Pty) Ltd and Vukile Property Fund Ltd and Mthatha Mall (Pty) Ltd in Respect of the Rental Enterprise known as BT NGEBS City	• Investment • Supplier development • Removal of exclusivity provisions in lease agreement
11	Takatso Aviation (Pty) Ltd and South African Airways State Owned Company Ltd	• Employment – moratorium on merger related retrenchments • Employment – minimum headcount • Divestiture
12	Old Mutual Funeral Services and Two Mountains Underwriters	• Employment – moratorium on merger related retrenchments • Employment – benefits • Commitment to SMMEs • Investment
13	Petrefuel Holdings (Pty) Ltd and Royale Energy (Pty) Ltd	• Employment – education fund • ESOP • Enterprise and supplier development • Employment – moratorium on merger related retrenchments
14	Auto Industrial Investment Holdings (AIIH) And Auto Industrial Group	• ESOP
15	Komatsu Mining Corp and GHH Group Gmbh	• HDP development - apprenticeship programme

Appendix 1: Large mergers approved with public interest conditions (continued)

	Parties	Conditions imposed
16	Pick n Pay Stores Limited and Various assets and the businesses belonging to the Tomis group of companies	• Employment – moratorium on merger related retrenchments • Investment; • Supply condition – procurement from HDP suppliers
17	Marga B.V and Dermalogica South Africa (Pty) Ltd	• HDP development • Entrepreneur ownership programme • Supplier development
18	Sun Valley Investments (Pty) Ltd in respect of the Property and Shopping Centre known as the Sun Valley Mall	• Supplier development
19	Kuehne and Nagel (Pty) Ltd and Morgan Cargo (Pty) Ltd, Morgan Cargo (KZN) (Pty) Ltd and Morgan Cargo Express (Pty) Ltd	• Employment – moratorium on merger related retrenchments
20	Lief 853 And Zimco Group	• Employment – moratorium on merger related retrenchments • Supply condition • Investment
21	BidAir Cargo Proprietary Limited and Interloc Freight Services Proprietary Limited	• HDP development • Supplier development • Enterprise development
22	Capitalworks Continental Holdings Partnership and Continental Compounders (Pty) Ltd and Continental Engineering Compounds (Pty) Ltd	• ESOP
23	Greenstreet 1 (Pty) Ltd and Solareff (Pty) Ltd	• ESOP
24	CBD Investments (Pty) Ltd and Rebosis Property Fund Ltd, Ascension Properties (Pty) Ltd, Main Street 1119 (Pty) Ltd and Cape Horizon Properties 125 (Pty) Ltd in Respect of a Portfolio of 22 (Twenty-Two) Property Rental Enterprises	• Greater spread of ownership
25	SKG Properties Fund II (Pty) Ltd and Elixir Trust, Represented by The Trustee for The Time Being of The Elixir Trust	• HDP development
26	3 Sisters (Pty) Ltd and Capespan Group (Pty) Ltd	• HDP development • Social development • Investment • Employment – moratorium on merger related retrenchments
27	Collins Property Group (Pty) Ltd and Collins Property Projects (Pty) Ltd	• Greater spread of ownership
28	Beko Europe B.V. and Beko B.V. and Whirlpool Corporation's European Major Domestic Appliances Business, and Whirlpool Maroc S.A.R.L (Morocco) and Whirlpool MEEA.	• Training and skills development • Investment • Localisation of procurement • Employment - moratorium on merger related retrenchments

Appendix 1: Large mergers approved with public interest conditions (continued)

	Parties	Conditions imposed
29	Life Healthcare Group (Pty) Ltd and The Dialysis Services Business of Fresenius Medical Care South Africa (Pty) Ltd	• Employment - moratorium on merger related retrenchments • Investment • Expansion of treatment to public sector patients • Open access policy
30	Devland Cash and Carry (Pty) Ltd and Massmart Holdings (Pty) Ltd	• Employment - moratorium on merger related retrenchments
31	Sasol Pension Fund, Litapro (Pty) Ltd, Luvon Investments (Pty) Ltd and Eden Meander C/O Accelerate Property Fund (Pty) Ltd	• HDP development
32	Rand Agri Holdings (Pty) Ltd and JVD Commodities (Pty) Ltd and JVD IP (Pty) Ltd	• Skills development
33	Hemipac Investments Pty Ltd and Ascencion Properties (Pty) Ltd in respect of a portfolio of ten property rental enterprises	• HDP development
34	Capitec Life Ltd and The Funeral Insurance Business Underwritten in The Cell Structure of Centriq Life Insurance Company Ltd	• SMME and HDP development
35	Sentraal-Suid Cooperative Ltd and Die Humansdorpse Landbou Koöperasie Beperk	• Employment – moratorium on merger related retrenchments • HDP participation
36	Community Property Company (Pty) Ltd And Luvon Investments (Pty) Ltd and Twin City Trading (Pty) Ltd in respect of Sam Ntuli Mall	• Removal of exclusivity provisions in lease agreement
37	Sanlam Emerging Markets (Pty) Ltd and Allianz Europe B.V. and SAN JV (RF) (Pty) Ltd	• Information exchange
38	Momentum Metropolitan Strategic Investments (Pty) Ltd and Investment Managers Group (Pty) Ltd and Royal Investment Managers (Pty) Ltd and	• Information exchange
39	Rebel Packaging (Pty) Ltd and Seyfert Corrugated Western Cape (Pty) Ltd	• Information exchange

Appendix 2: Consent/settlement agreements 2023/2024

No.	Parties	Section of the Act
1	CC and Pacific Solar Technologies (Pty) Ltd	Section 4(1)(b)(iii)
2	CC and Cape Gate (Pty) Ltd	Sections 4(1)(b)(i) and (ii)
3	CC and Siyavuma Sports Group (Pty) Ltd	Section 4(1)(b)(i)
4-5	CC and Enviro Options (Pty) Ltd	Sections 4(1)(b)(i); (ii); and (iii)
6	CC and Medmart Health (Pty) Ltd	Sections 4(1)(b)(i) and (ii)
7	CC and Cromico Trading (Pty) Ltd	Sections 4(1)(b)(i) and (iii)
8	CC and Standard Chartered Bank	Sections 4(1)(b)(i) and (ii)
9	CC and Pienaar Brothers (Pty) Ltd	Section 4(1)(b)(ii)
10-11	CC and Allens Meshco (Pty) Ltd and Others	Sections 4(1)(b)(i); (ii); and (iii)
12	CC and Spar Group Limited	Section 8(a)
13	CC and Unilever South Africa (Pty) Ltd	Section 4(1)(b)(ii)
14	CC and The Golfer's Club & Moregolf (Pty) t/a The Pro Shop	Section 4(1)(b)(i)
15	CC and Tokai Rika Company Limited	Section 4(1)(b)(i); (ii); and (iii)
16	CC and Leo Constantin Pistorius and Five Others	Section 5(2)
17	CC and Leo Constantin Pistorius and Four Others	Section 4(1)(b)(i)
18	CC and Primedia Outdoor, a Division of Primedia (Pty) Ltd	Section 4(1)(b)(i)
19-21	CC And Stuttaford Van Lines (Pty) Ltd; CC and Pickfords Removals (Pty) Ltd; and CC and AGS Frasers International	Sections 4(1)(b)(i) and (iii)
22-23	CC And Robberg Quarry (Pty) Ltd; CC And Shelfcorp 63 (Pty) Ltd	Section 49D(2)(c); Section 4(1)(b)

Appendix 3: Complaint Referrals 2023/2024v

No.	Parties	Section of the Act
1	CC and BlueCollar Occupational Health (Pty) Ltd and Ateltico Investments (Pty) Ltd	Section 8(1)(a)
2	CC and WACO Africa (Pty) Ltd and Six Others	Section 4(1)(b)(ii)
3	CC and Totalgaz and 4 Others	Section 4(1)(b)(i)
4	Nu Africa Duty Free Shops (Pty) Ltd and Distell Ltd	Section 8(1)(c)

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