**4. Budgetary Review and Recommendation Report of the Portfolio Committee on Trade and Industry, dated 18 October 2017**

The Portfolio Committee on Trade and Industry, having assessed the service delivery performance of the Department of Trade and Industry, against its mandate and allocated resources, in particular the financial resources for the period 1 April 2016 to 30 June 2017, reports as follows:

1. Introduction

This assessment of the Department of Trade and Industry’s (DTI) performance reflects the increasing focus on attracting productive investment to grow the economy and create employment. Accordingly, the DTI is intent on creating a fair regulatory and competitive environment to promote trade and enterprise development using targeted broad-based black economic empowerment interventions such as support for black industrialists, the development of special economic zones and the revitalisation of industrial parks.

Furthermore, the DTI has invested the largest share of its budget to supporting enterprises through the Incentive Administration and Development Programme. Thus, it has contributed towards growing and increasing the competitiveness of the industrial base, creating jobs, attracting foreign direct investment and facilitating exports. It is not surprising it is oversubscribed.

The Investment South Africa Programme is in colloquial parlance “the new kid on the block. For the financial year, the programme had out-performed its target in terms of investments facilitated. The Trade Export South Africa Programme also out-performed its target for exports facilitated. These programmes play a significant role in supporting the industrialisation drive but also promote employment creation and localisation.

The DTI has also continued to advance regional and international trade, through its participation in various multilateral and African fora and trade negotiations. It remains committed to pursuing the developmental agenda for the Doha Round negotiations of the World Trade Organisation, as well as deepening regional integration in Africa.

There have been some concerns regarding the slow pace at which regulatory reforms were occurring. There have been delays in finalising the National Liquor and Gambling Amendment Bills. However, the DTI had tabled the Copyright and Performers’ Protection Amendment Bills in Parliament, which are before the Committee.

The DTI had achieved a clean audit. It had also maintained its standard of paying its creditors within 30 days, and achieved its targets on employing people with disabilities and women at senior management level.

* 1. Mandate of the committee

Section 5 of the Money Bills Amendment Procedure and Related Matters Act (No. 9 of 2009) requires the National Assembly, through its committees, to annually assess the performance of each national department over an 18 month period. A committee must submit a report of this assessment known as a Budget Review and Recommendation (BRR) Report. The overarching purpose of the BRR Report is for the committee to make recommendations on the forward use of resources to address the implementation of policy priorities and services, as the relevant department may require additional, reduced or re-configured resources to achieve these priorities and services. This Act gives effect to Parliament’s constitutional powers to amend the budget in line with the fiscal framework.

The BRR Report process enables the Committee to exercise its legislative responsibility to ensure that the DTI and its entities are adequately funded to fulfil their respective mandates. However, as the Budget Office is still in the process of becoming fully functional, the Committee was unable to exercise its full powers on providing detailed budgetary recommendations. The Committee looks forward to a fully operational Budget Office, which will substantively contribute to the budgetary support the Committee requires to undertake this process.

* 1. Purpose of the BRR Report

The purpose of this report is to analyse the financial and non-financial performance of the DTI, and its identified entities, against predetermined objectives to inform recommendations for their forward-looking budgets. This report assesses performance for the 2016/17 financial year, and the first three months of the 2017/18 financial year, namely from 1 April 2016 to 30 June 2017 within the context of the three-year Medium Term Expenditure Framework.

* 1. Method

The Committee met with the Auditor-General on 12 September 2017 to discuss its mandate in relation to the work of the DTI and its entities, as well as the audit outcomes for the 2016/17 financial year. The committee was also briefed by the DTI on its 2016/17 annual report and performance for the first quarter of the 2017/18 financial year on 12 September 2017

For the BRR Report, the Committee also considered the performance of the the National Consumer Commission (NCC), the National Credit Regulator (NCR), the National Regulator for Compulsory Specifications (NRCS), and the South African Bureau of Standards (SABS) for the annual report process. In this regard, the Committee held meetings with these four entities to engage on their 2016/17 Annual Reports and their performance for the first quarter of the 2017/18 financial year on 12 September and 3 October 2017.

* 1. Limitations of the Report

One of the key limitations of the report is that not all of the DTI’s entities’ annual reports and quarterly spending trends were considered for the 15-month period. Therefore, there was a reliance on the DTI and the Auditor-General to highlight challenges experienced by the other nine entities. However, all entities, with the exception of the NRCS, received unqualified audit opinions.

The BRR Report is intended to cover an 18-month period including the previous financial year’s annual report and the first six months of the current financial year. Due to the timing of the BRR Report verified second quarter financial and non-financial information were not available. The key challenge was that the DTI and its entities were still in the process of verifying the non-financial information, which is due at the end of October each year in compliance with Treasury regulations. Therefore, the report has only captured performance up to the first quarter of the 2017/18 financial year.

* 1. Outline of the contents of the Report

This BRR Report consists of the introduction (Section 1) and three parts. Section 1 briefly provides an overview of the DTI’s core functions, the mandate of the committee, the purpose of this report and the method followed in preparing this report, as well as the limitations of the Report.

Part A focuses on the assessment of the DTI for the period under review. It contains 3 sections in this regard. Section 2 sets out the key policy focus areas for the DTI. This includes an overview of the relevant national priorities which the DTI contributes to, as well the DTI’s strategic objectives, outcome-orientated goals and key measurable objectives. Section 3 provides a summary of the key financial and performance recommendations of the committee as captured in its previous BRR Report and its 2016/17 Budget Report. Section 4 assesses the DTI’s financial and non-financial performance against its vote allocation from 1 April 2016 to 30 June 2017. This covers the DTI’s service delivery, available human resources, and its 2016/17 budget vote allocation against the actual expenditure for the period ending 31 March 2017, as well as the audit findings. This is followed by a comparison of the DTI’s budgeted and actual expenditure as at 30 June 2017. This section also outlines key issues raised by the Committee during deliberations with the DTI.

Part B considers the financial and non-financial performance of the four entities identified by the Committee for oversight during this BRR reporting process in terms of their mandates, strategic objectives and core issues previously identified by the committee. In addition, their financial and non-financial performance and their additional forward-looking budgetary and/or performance requirements are assessed. This covers Sections 5 to 8.

Part C consists of Sections 9 to 11. Section 9 provides the Committee’s concluding remarks followed by a note of appreciation in Section 10. The report then closes with the Committee’s recommendations for the National Assembly’s approval in Section 11.

**PART A: FINANCIAL AND NON-FINANCIAL PERFORMANCE OF THE DEPARTMENT OF TRADE AND INDUSTRY**

1. Overview of the key relevant policy focus areas
   1. Strategic Objectives of the Department

The DTI’s performance is in line with its strategic objectives, which guide its work and are aligned to its programmes. The strategic objectives are as follows:

* Promoting a professional, ethical, dynamic, competitive and customer-focused working environment that ensures effective and efficient service delivery.
* Building mutually beneficial regional and global relations to advance South Africa’s trade, industrial policy and economic development objectives.
* Facilitating broad-based economic participation through targeted interventions to achieve more inclusive growth.
* Facilitating transformation of the economy to promote industrial development, investment, competitiveness and employment creation.
* Creating a fair regulatory environment that enables investment, trade and enterprise development in an equitable and socially responsible manner.

In terms of its core functions, the DTI is responsible for overseeing 14 entities and administering 42 Acts[[1]](#footnote-1). These entities can be divided into three categories according to the type of work they perform, namely the financial agencies, the regulatory agencies, and the technical institutions (see table 1).

in addition to overseeing the DTI, the Committee oversees these entities. Mainly because a number of the DTI’s strategic objectives are implemented through these entities.

**Table 1: List of entities reporting to the DTI**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **FINANCIAL AGENCIES** |  | **REGULATORY AGENCIES** |  | **TECHNICAL INSTITUTIONS** |
| * Export Credit Insurance Corporation of South Africa (ECIC) * National Empowerment Fund (NEF) |  | * Broad-Based Black Economic Empowerment Commission * Company and Intellectual Property Commission (CIPC) * Companies Tribunal (CT) * National Consumer Commission (NCC) * National Credit Regulator (NCR) * National Consumer Tribunal (NCT) * National Gambling Board of South Africa (NGB) * National Lotteries Commission (NLC) |  | * National Metrology Institute of South Africa (NMISA) * National Regulator for Compulsory Specifications (NRCS) * South African Bureau of Standards (SABS) * South African National Accreditation System (SANAS) |

1. SUMMARY OF PREVIOUS KEY FINANCIAL AND PERFORMANCE RECOMMENDATIONS OF THE COMMITTEE
   1. 2016/17 BRRR recommendations[[2]](#footnote-2)

The Committee recommended that the Minister should consider:

* + 1. Reviewing the effectiveness of the Department and its entities’ plans and programmes to ensure the acceleration of industrialisation and job creation.
    2. Additional funding for the NCC in the outer of years of the Medium Term Expenditure Framework to address its capacity constraints.
  1. 2017/18 Committee Budget Report[[3]](#footnote-3)

The Committee recommended that the Minister should consider:

* + 1. In conjunction with the relevant Minister(s), developing stronger enforcement measures that would ensure that local procurement policies as reflected in the Preferential Procurement Framework and the Broad-Based Black Economic Empowerment legislation are implemented by all government departments, provincial and local government spheres, as well as State-Owned Enterprises as these are instruments to facilitate economic development, localisation and employment creation.
    2. Engaging National Treasury to ensure that National Metrology Institute of South Africa receives the necessary funding for its recapitalisation programme due to its strategic importance to the economy, as well as the health and safety of South Africans.
    3. Engaging National Treasury to ensure that the Broad-Based Black Economic Empowerment Commission receives the appropriate funding to ensure that it is able to fulfil its mandate.
    4. In consultation with the Minister of Finance, securing additional funds to continue with the Manufacturing Competiveness Enhancement Programme over the Medium Term Expenditure Framework.

1. OVERVIEW AND ASSESSMENT OF THE DEPARTMENT’S FINANCIAL AND NON-FINANCIAL PERFORMANCE FOR THE PERIOD 1 APRIL 2016 TO 30 JUNE 2017
   1. Overview and Assessment of the Department’s Financial and Non-financial Performance for the 2016/17 Financial Year[[4]](#footnote-4)

This section provides a comparison between what the DTI targeted in its Annual Performance Plan (APP) against the Annual Report for the 2016/17 financial year. Furthermore, it outlines other areas of performance, mainly internal administrative areas that the DTI is required to report on. It then provides an overview of the Auditor General’s audit outcomes. Lastly, it highlights the key issues raised during the Committee’s deliberations.

# Non-Financial Performance

For the 2016/17 financial year, the DTI had 35 performance targets according to the APP. However, the Annual Report reports on 33 performance targets, as two of the targets were removed during the financial year. These targets were in the Consumer and Corporate Regulation Programme, namely:

* Four regulations on Liquor, Companies, Gambling and Copyright developed for Minister’s approval and published.
* One Policy Framework on legislative audit report developed for Minister’s approval (policy position on policies to retain or migrate).

Of the 33 targets that the DTI reported on, 27 targets were achieved while six were not achieved. This translates to 82% achievement of its targets. The table below provides a breakdown of achievement of targets by programme and an overview of the targets that were not met.

**Table 2: Performance by Programme**

| **Programme** | **Performance Indicators/Targets** | |
| --- | --- | --- |
| **Number** | **Description of unachieved targets** |
| Administration | Achieved: 7  Not achieved: 2 | * Vacancy rate averaged 7% against a target of 5%. * 18 Media awareness campaigns against a target of 22. |
| International Trade and Economic Development | Achieved: 4 |  |
| Special Economic Zones and Economic Transformation | Achieved: 4 |  |
| Industrial Development | Achieved: 2  Not achieved: 1 | The report on the implementation of the Industrial Policy Action Plan (IPAP) was not produced as planned.  This was due to the IPAP meeting not taking place as a result of the preparations for the next financial year’s IPAP. |
| Consumer and Corporate Regulation | Achieved: 3  Not achieved: 3 | * The DTI had not developed two evaluation reports on the Consumer Protection Act (exemptions and industry codes) and Companies Act (cost of doing business) for Minister’s approval as planned. * The business cases (National Liquor and Gambling Trading Entities) were developed but not sent to the Minister for approval. * The DTI had not repositioned or established two institutions/entities (National Liquor and Gambling Trading Entities) as had been planned. |
| Incentive Development and Administration | Achieved: 8 |  |
| Trade Export South Africa | Achieved: 1 |  |
| Investment South Africa | Achieved: 1 |  |

## Incentive Performance

The Incentive Development Programme accounts for the largest share of the DTI’s budget and contributes towards the achievement of two strategic objectives, namely:

* Growing the manufacturing sector to promote industrial development, job creation, investment and export.
* Facilitating transformation of the economy to promote industrial development, investment, competitiveness and employment creation.

For the financial year, the programme had out-performed all its targets in terms of investment facilitated, exports, and jobs created/retained.

**Table 3: Incentive Administration Performance**

|  | **2016/17** | |
| --- | --- | --- |
| **Target** | **Actual Achievement** |
| Value of projected investments to be leveraged from projects/enterprises approved | R20 billion | R33 billion |
| Projected number of new jobs supported from projects/enterprises approved | 3 600 | 11 659 |
| Projected number of jobs to be retained from approved enterprises | 3 600 | 38 192 |
| Value of support provided to upgrade industrial skills from approved projects | R100 million | R239 million |
| Number of strategic infrastructure projects approved for SEZs/industrial parks | 15 | 19 |
| Value of greener investment approved | R800 million | R14 billion |
| Value of projected export revenue from projects approved | R800 million | R7 billion |
| Value of innovative venture supported from approved enterprises | R50 million | R278 million |

## Financial Performance

The DTI’s budget/appropriation was R10.4 billion for the 2016/17 financial year. During the financial year, expenditure totalled R10.3 billion or 99.6%. Total underspending for the financial year amounted to R40.1 million.

Depicted below is the DTI’s spending by programme against the budget for the financial year. Most of the programmes’ budget have been spent with the exception of the Special Economic Zones and Economic Transformation programme, which had an underspending of 13%.

The budget can be divided into two. On the one hand, the DTI allocated R8.8 billion (85.2%) of the budget for transfers and subsidies. On the other hand, R1.5 billion (14.5%) of the budget remains for its operation and is spent on compensation of employees; payment of goods and services; payments for capital assets; and payments for financial assets.

**Table 4: Financial Performance by Programme**

| **Programme** | **Final appropriation (R'000)** | **Actual expenditure (R'000)** | **% Actual Expenditure** |
| --- | --- | --- | --- |
| Administration | 721 505 | 699 139 | 96.9% |
| International Trade and Economic Development | 116 070 | 116 024 | 100.0% |
| Special Economic Zones and Economic Transformation | 112 492 | 97 589 | 86.8% |
| Industrial Development | 1 722 289 | 1 722 245 | 100.0% |
| Consumer and Corporate Regulation | 295 763 | 295 381 | 99.9% |
| Incentive Development and Administration | 6 896 306 | 6 895 186 | 100.0% |
| Trade Export South Africa | 455 836 | 454 588 | 99.7% |
| Investment South Africa | 69 256 | 69 244 | 100.0% |
| **Total** | **10 389 517** | **10 349 396** | **99.6%** |

Most of the virements that occurred during the financial year were due to savings resulting from vacant posts that could not be filled during the financial year (as budget cuts to lower the national aggregate expenditure ceiling for compensation of employees were effected over the MTEF), cost-containment measures, and other savings.

The figure below depicts DTI’s expenditure by category.

**Table 5: Expenditure by category**

| **Appropriation per economic classification** | **Actual expenditure (R'000)** | **Share (%)** |
| --- | --- | --- |
| **Current payments** | **1 505 485** | **14.5%** |
| Salaries and wages | 815 824 | 7.9% |
| Social contributions | 99 674 | 1.0% |
| Goods and services | 589 987 | 5.7% |
| **Transfers and subsidies** | **8 818 108** | **85.2%** |
| **Payments for capital assets** | 16 103 | 0.2% |
| **Payment for financial assets** | 9 700 | 0.1% |
| **Total** | **10 349 396** | **100%** |

## Transfers to DTI entities

The work of the DTI extends to the entities that it oversees. During the 2016/17 financial year, thirteen entities reported to it. Of the 13 entities, three are fully self-funded, these are the CIPC, NEF and NLC[[5]](#footnote-5). The rest receive some ofr all of their funding from the DTI. For the 2015/16 and 2016/17 financial year, transfers to the DTI’s entities were as follows:

**Table 6: Transfers to Entities**

| **Entity** | **Transfers (R'000)** | | **Change (2015/16 - 2016/17)** |
| --- | --- | --- | --- |
| **2015/16** | **2016/17** |
| Companies and Intellectual Property Commission (CIPC) | - | - | - |
| Companies Tribunal (CT) | 14 221 | 15 069 | 848 |
| Export Credit Insurance Corporation of South Africa (ECIC) | 199 969 | 171 566 | - 28 403 |
| National Consumer Commission (NCC) | 54 596 | 56 643 | 2 047 |
| National Credit Regulator (NCR) | 66 727 | 69 577 | 2 850 |
| National Consumer Tribunal (NCT) | 46 029 | 46 151 | 122 |
| National Empowerment Fund (NEF) | - | - | - |
| National Gambling Board (NGB) | 31 983 | 30 121 | -1 862 |
| National Lotteries Commission (NLC) | - | - | - |
| National Metrology Institute of South Africa (NMISA) | 250 895 | 264 193 | 13 298 |
| National Regulator for Compulsory Specifications (NRCS) | 91 732 | 86 418 | -5 314 |
| South African Bureau of Standard (SABS) | 216 215 | 212 361 | -5 391 |
| South African National Accreditation System (SANAS) | 26 025 | 22 208 | -3 817 |

## Audit Outcomes

The Auditor General in the assessment of the DTI’s 2016/17 financial year assessed financial and non-financial performance. In terms of non-financial performance, the following programmes were assessed:

* Programme 3: Special Economic Zones and Economic Transformation
* Programme 4: Industrial Development
* Programme 6: Incentive Development and Administration
* Programme 8: Investment South Africa

The outcome of this assessment was that the Auditor-General did “…not find any material findings on the usefulness and reliability of the reported performance information for the selected programmes…”[[6]](#footnote-6)

The Auditor General noted that the DTI had a clean audit report. However, it is important to note that a material impairment of R35 million was provided for as a result of debtors outstanding for longer than 12 months.

## Financial and non-financial performance as at 30 June 2017[[7]](#footnote-7)

## Non-financial Performance

The DTI had 26 performance targets for the 2017/18 financial year, of which, two quarterly targets were not met. These were that:

* Only 163 of the targeted 228 companies were assisted under the Export Marketing and Investment Assistance (EMIA). This was due to the following activities being postponed to later in the financial year: ITI Russia, Trade Missions to Cuba, USA and from South Sudan postponed to later in the year.
* Twelve out of the targeted 20 outreach engagements and exhibitions were held. This was due to slow demand for outreach engagements. However, the DTI reported that the demand had started to pick up in the second quarter.

The DTI also highlighted a number of achievements in the first quarter. These included:

* In terms of Industrial Development:
* The Agro-processing Support Scheme (ASS) of R1 billion launched in May 2017.
* In terms of designation, water meters have been included under the residential electricity meter designation at 40% local content. The Aberdare Cables will be expanding its facilities to be able to produce up to 66KV cables. The R30 million investment will create an additional 25 jobs to start in March 2018.
* The DTI supported the application from industry to increase the general rate of customs duty on prefabricated buildings from duty free to the maximum bound rate of 20% ad valorem; in order to protect the existing manufacturing capacity and to create new jobs.
* The DTI approved R8 million cluster support to the Mining Equipment Manufacturers of South Africa (MEMSA).
* In terms of Trade, Investment and Exports:
* South Africa Positions advanced in the Group of 20 to resist a G20 agenda that would undermine the Doha Development Agenda (DDA) in the World Trade Organization (WTO) by advancing new policy issues that would undermine policy space especially for developing countries.
* Modalities on Trade in Services approved and parameters for the Trade in Goods modalities agreed by African Union Ministers of Trade (AMOT) for the Continental Free Trade Area (CFTA).
* Addressed the United State of America’s (USA) concerns with regards to the Tariff Rebate Quota (TRQ) on chicken thus avoiding an out-of-cycle review.
* Significant progress achieved in the Southern African Customs Union–East African Community (SACU-EAC) tariff negotiations with 85% of the tariffs agreed.
* A significant amount of trade leads was generated through the Foreign Offices resulting in 295 leads disseminated to South African exporters against the target of 240.
* The Deputy Minister participated in the St Petersburg International Economic Forum and the DTI supported his participation on the Brazil, Russia, India, China and South Africa (BRICS) and Africa-Russia panel sessions.
* Exports sales facilitated and recorded in the quarter amounted to R2.2 billion to regions around the world.
* In terms of Special Economic Zones and Economic Transformation:
* Amendment of Draft Statement 005 submitted to the Minister for signing in June 2017; the Statement appoints the Broad-Based Black Economic Empowerment (B-BBEE) Policy Unit as the B-BBEE Verification Professional Regulator as well as introduces Empowerment Standards for Rating Agencies.
* Minister launched Black Industrialist companies: United Industrial Cables in June 2017 and K9 Pet Foods in May 2017.
* The DTI, in conjunction with the KwaZulu-Natal Economic Development and Environmental Affairs Department, launched the Black Industrialist Program in KwaZulu-Natal led by the Minister and MEC Zikalala in June 2017.
* In terms of Legislation and Regulation:
* Seven education and awareness workshops were convened in Limpopo (Tshakuma, Tzaneen, Ga-Masemola, Westernburg) and KwaZulu Natal.
* The Copyright Amendment Bill was introduced in Parliament in May 2017.
* In terms of Administration and Co-ordination:
* All eligible creditor payments were processed well within 30 days, with 43% of 4 144 creditors payment processed within 15 days and the remainder within 30 days.
* The DTI has 3.34% of all its employees being people with disabilities.
* The annual target of 50% of senior management being female was met.

## Financial Performance

The DTI’s budget for the 2017/18 financial year is R9.3 billion. In the first quarter of the 2017/18 financial year, the DTI had projected spending of R2.5 billion; however, the DTI had only spent R1.7 billion or 68% of the year to date budget. By the end of the first quarter, 81% of the total annual budget was available. More than 85% of the budget was spent on incentive payments and other transfers; while 9% was spent on compensation of employees and 6% on goods and services.

In terms of programmes, the Industrial Development Programme spent the largest amount (R701.7 million or 40.8% of the first quarter expenditure), followed by the Incentive Development Administration Programme (R558.7 million or 32.5% of the first quarter expenditure). However, the Incentive Development Administration Programme underspent by 59.1%. The DTI explained that this was due to (i) outstanding compliance documentation required from applicants to finalise claims, (ii) claims that could not be processed as they were found to be non-compliant with the guidelines, (iii) funding agreements still being finalised, and (iv) a slow inflow of claims across the various incentives. There had also been significant underspending within the Trade Export South Africa Programme (22.8% of the projected spending) and the Investment South Africa Programme (7.8% of the projected spending).

The table below shows the DTI’s expenditure for the first quarter by programme.

**Table 7: Budget and Expenditure for the first quarter of the 2017/18 financial year**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Programme** | **Budget 2017/18 (R’000)** | **Year-to-date** | | | **% Budget Available** |
| **Budget (R'000)** | **Expenditure (R'000)** | **% Variance** |
| Administration | 731 820 | 171 733 | 180 166 | 4.9% | 75.4% |
| International Trade and Economic Development | 119 818 | 23 276 | 24 488 | 5.2% | 79.6% |
| Special Economic Zones and Economic Transformation | 119 410 | 24 764 | 24 001 | -3.1% | 79.9% |
| Industrial Development | 1 819 277 | 702 059 | 701 675 | -0.1% | 61.4% |
| Consumer and Corporate Regulation | 298 629 | 148 988 | 148 475 | -0.3% | 50.3% |
| Incentive Development Administration | 5 746 519 | 1 367 360 | 558 677 | -59.1% | 90.3% |
| Trade Export South Africa | 388 463 | 89 265 | 68 909 | -22.8% | 82.3% |
| Investment South Africa | 50 859 | 12 681 | 11 686 | -7.8% | 77.0% |
| **TOTAL** | **9 274 795** | **2 540 126** | **1 718 077** | **-32.4%** | **81.5%** |

Source: Department of Trade and Industry (2017b)

## Issues raised during the deliberations

The following concerns were raised related to the performance of the DTI during the Committee’s deliberations:

* + 1. ***Failure of State Owned Entities (SOEs) to support localisation and local public procurement:*** The Committee raised a number of concerns with respect to the failure of SOEs to support localisation and local public procurement in South Africa. Also, a view was expressed that the Minister had been painting an alternative economic reality than what currently exists. The Committee enquired whether the Minister was considering any measures that would compel government and SOEs to support the local public procurement process and localisation. The Minister informed the Committee that in no way was he trying to paint an alternative picture in relation to the current economic realities facing South Africa. He acknowledged that there were challenges with respect to local public procurement and localisation and that this needed to be contextualised. He informed the Committee that different procurement regulations exist that governs SOEs such as Transnet and Eskom, which is the Competitive Supplier Development Programme (CSDP). The aim of CSDP is to increase the competitiveness, capacity and capability of the South African supply base where there are comparative advantages and potential competitive advantages of local supply. This can be achieved through skills transfer, increasing the local content of items procured as well as building new capability in the local supplier base. These entities were required to develop their own localisation programme and did not fall under the DTI. The Minister informed the Committee that on numerous occasions he had raised his concerns around the non-compliance of SOEs, as this undermined the local public procurement and localisation objectives . He welcomed and encouraged the approach of the South African Clothing and Textile Workers Union that identifies companies that do not procure local and engages with them. He also raised the concerns that some tenders were granted in the name of Black Economic Empowerment with these companies importing most of their products rather than producing them locally. He reemphasised that localisation and empowerment are necessary for economic development and job creation.
    2. ***Effective implementation of and adherence to local public procurement policy:*** The Committee enquired whether the DTI would consider developing a mechanism to monitor localisation. The Minister informed the Committee that when National Treasury issues an instruction note, non-compliance is in direct contravention of applicable legislation. It is therefore important that the DTI improves its monitoring capacity that would contribute in ensuring compliance with local content requirements, but this should be done in conjuction with the Office of Auditor-General, and form part of the auditing process. He also informed the Committee that the Department of Planning, Monitoring and Evaluation would be looking at the entire scope of localisation as to ensure that localisation and incentives, which are the most powerful tools for industrialization, are implemented more effectively. Through effective monitoring, government should be able to stop the leakages associated with non-compliance with the localisation-related legislation. The Minister also informed the Committee that the present government would not become a signatory to the “Revised World Trade Organisation’s Agreement of Government Procurement” as it would effectively neutralise the use of the localisation tool for local economic development. Furthermore, he also noted that localisation and local public procurement applies to municipalities, provincial departments, and any other entity operating in the public space.
    3. ***Contract between government and Chinese parastatals:*** The Committee enquired to the status of the R70 billion contract and how South African industry would benefit from such an investment. The Minister informed the Committee that the investment refers to two infrastructure projects, the Moloto Corridor and the Imzivuvo dam. The Minister was of the view that all infrastructure projects should seek to use local suppliers and locally manufactured products, and that localisation did not imply that the company had to be a South African company. A foreign investor investing and manufacturing within the country; thus, contributing towards job creation and economic growth could also meet local content requirements. The Minister informed the Committee that he was unable to respond to the Committee in terms of these projects as it falls under the Presidential Infrastructure Coordinating Committee.
    4. ***Black Industrialist programme:*** The Committee welcomed the progress of the programme as it promotes the growth of black-owned and managed companies within the manufacturing sector in support of industrialisation as outlined in the IPAP. Sixty-two persons were approved under the Black Industrialist programme with the target of 100 persons to be approved set to be achieved by the end of the financial year. To date, R3 billion had been spent on the programme. The Committee enquired that of the 7 000 jobs created, how many were permanent, and whether the minimum wages were paid. The DTI informed the Committee that one of the requirements of the DTI, before it approved any incentives, was that companies must comply with the Labour Relations Act (No. 66 of 1996), and the Basic Conditions of Employment Act (No. 75 of 1997). The DTI informed the Committee that it monitors commitments by companies with regard to employment creation, and whether it complies with the relevant employment legislation. Non-compliance results in cancellation of contracts or a delay in payment to ensure compliance. As part of this, companies must comply with the new minimum wage requirement.
    5. ***B-BBEE compliance:*** The Committee raised concerns around the compliance with the Broad-Based Black Economic Empowerment legislation. The Minister informed the Committee that the new threshold for major B-BBEE transactions would be R25 million. According to the new definition, a major B-BBEE transaction is any transaction that has resulted or will result in a measured entity claiming ownership points in terms of the ownership scorecard of the applicable BEE codes of good practice, and where the B-BBEE transaction value is equal or more than R25 million. This threshold must be applied retrospectively, and all major B-BBEE ownership transactions concluded on or after 24 October 2014 must be registered with the B-BBEE Commission within 60 calendar days of the final publication of the announcement. The Minister also informed the Committee that all state entities must comply with B-BBEE legislation. The B-BBEE Commissioner had initiated investigations against specific entities for possible violation of B-BBEE relating to their ownership structure and non-compliance with the Codes of Good Practice in respect of the verification process. If found to have violated the B-BBEE Act, the entities may be referred for prosecution and exposed to a fines of up to 10% of the entity’s annual turnover and the individuals involved can be fined or imprisoned for up to 10 years. The entities can also be excluded from doing business with government for a period of up to 10 years, and the contracts they have with any state-owned entity or government department can be cancelled.
    6. ***The DTI’s role in developing the Mining Charter:*** The Committee enquired to the role the DTI played in the development of the Mining Charter, and whether this would contribute to investment and job creation. The Minister informed the Committee that the Mining Charter was developed by the Department of Mineral Resources in compliance with the Mineral and Petroleum Resources Development Act (No. 28 of 2002), and not with the B-BBEE legislation. The DTI’s contribution was merely technical. The Minister was of the view that ownership patterns in the industry needed to change, but this should be through robust engagement with all role-players in the mining industry.
    7. ***Virement:*** The Committee noted that the budget for the Consumer and Corporate Regulation Division (CCRD) had been fully spent, but a request for a virement of R1.4 million to this programme was approved. This was done notwithstanding the fact that the Division had not met all its targets. The Committee enquired to the reasons for the allocation of the R1.4 million virement. The DTI informed the Committee that all virements require National Treasury approval. The request for additional funding was for legal fees with respect to the legislation introduced in Parliament, and to augment their operational budget.
    8. ***Overpayment of salaries:*** The Committee enquired to the reasons for the overpayment of salaries. The DTI informed the Committee that the overpayment of salaries related to employees that resigned during the year. One of the inherent limitations to the salary system was that all government employees received their salaries on the 15th of each month. If any staff member resigned soon after pay day, the DTI would recover the money from the employee’s pension fund. All monies owed to the DTI is recovered through debt management practices.
    9. ***Quality of legislation introduced in Parliament:*** The Committee raised a number of concerns with respect to the quality of legislation introduced in Parliament especially in light of the Copyright Amendment Bill. The Committee would like to enquire to the steps being taken by the DTI to address this challenge. The Minister informed the Committee that the Bill had been introduced to implement the recommendations of the Farlam Commission, especially in relation to needle time and the payment of South African artists. The DTI acknowledged the internal weakness with regard to the technical drafting of the legislation within the Division, and had put in place the necessary measures such as a training programme. The DTI accepted that the drafting of the Bill had not been acceptable. The necessary technical assistance with regard to drafting would be sought especially in relation to the drafting of the B-Bill. The DTI, therefore, informed the Committee that they would be delaying the liquor and gambling legislation to address this shortcoming. The Minister welcomed the approach of the Committee to develop a B-Bill on the Copyright Amendment Bill to first address these technical challenges.
    10. ***Vacancies within the DTI:*** The Committee noted with concern that key positions in the DTI and certain entities had not yet been filled. The Committee enquired when the vacancies, especially in relation to the position of Deputy Director-General (DDG) for the CCRD and the Chief Executive Officer (CEO) of the NGB, would be filled. The DTI informed the Committee that the position for the DDG position had been advertised with the closing date for applications set for 15 September 2017. With respect to the NGB, the DTI informed the Committee that legislation is currently being drafted that would change the structure of the NGB with the intention to do away with the Board, and establish it as a gambling regulator. The position of gambling regulator would be filled once the relevant legislation was amended.
    11. ***Regression with regard to the audit performance of certain entities:*** The Committee noted with concern the regression in respect of the audit findings of the DTI, as well as its entities. The Committee enquired from the Auditor-General to reasons for this regression and what measures should be considered to address the audit findings. The Auditor-General informed the Committee that the four entities that did not receive a clean audit had had financial statements that had to be corrected for it to be reliable. Compliance with Supply Chain Management was another concern. These entities must prepare an audit action plan to address these findings. The monitoring of these action plans would be important, because if there is a deviation, the entity should be brought in line with the agreed action plan. The Auditor-General informed the Committee that the entity it is most concerned with was the NCC. The Committee noted that the NCC showed a lack of urgency in providing accurate information. Its key control measures was of concern especially in relation to monitoring and review, and the availability of accurate information. The DTI informed the Committee that it had seconded an official from the finance division in the DTI to strengthen the capacity in the NCC. In addition, it informed the Committee that it had established a public entity oversight unit, as well as a committee consisting of the chairpersons of all the audit committees, to ensure that issues relating to the audit findings would be addressed.

PART B: Financial and non-financial performance of identified entities

1. National Consumer Commission

The NCC falls under the Consumer and Corporate Regulation Division within the DTI. It was established by the Consumer Protection Act (No. 68 of 2008) and became operational on 1 April 2011. The NCC’s core mandate is to assist in protecting consumer rights by increasing consumer awareness of what these rights are; investigating prohibited conduct by business; and enforcing compliance with the provisions of the Act.

According to the Act, the NCC’s functions include the:

* Development of codes of good practice relating to the provisions of the Act.
* Promotion of legislative reform through consultation with provincial consumer protection authorities, national organs of state, consumer protection groups, alternative dispute resolution agents and suppliers.
* Promotion of consumer protection within organs of state.
* Enforcement of the Act including the investigation and evaluation of any prohibited conduct and offences, issuing and enforcing compliance notices.
* Compilation of research to increase knowledge of the nature and dynamics of the consumer market.
* Promotion of public awareness of consumer protection matters.
* Liaison with other regulatory authorities on matters of common interest.
* Provision of advice and recommendations to the Minister.
  1. Performance for the 2016/17 financial year
     1. Non-financial performance

For the 2016/17 financial year, the NCC had 19 performance targets, 17 of which were achieved.

**Table 8: Performance Indicators per Programme**

|  |  |  |
| --- | --- | --- |
| **Programme** | **Performance Targets** | |
| **Number** | **Description of targets not achieved** |
| **Programme 1:** Administration | Achieved: 1 | - |
| **Programme 2:** To promote Consumer Protection and Consumer Safety | Achieved: 8  Not achieved: 1 | 10 Consumer awareness workshops were conducted against a target of 24 |
| **Programme 3:** To promote reform of consumer policy and consumer protection legislation | Achieved: 4 | - |
| **Programme 4:** To conduct research and to promote public awareness on consumer protection matters | Achieved: 4  Not achieved: 1 | The appointment of a transactional adviser and the feasibility study had not been finalised. |

Source: National Consumer Commission (2017: 42-52)

In terms of the audit by the Auditor-General, programme 2, 3, and 4 were audited. For Programme 3, he was unable to obtain sufficient, appropriate audit evidence for the reported achievement of the target of “80% of registered requests for explanatory notes and/or non-binding opinions provided within an average of 20 days”. Therefore, he was unable to determine whether any adjustments were required to the reported achievement of 100%.

For Programme 4, he highlighted that for the target of “complaints analysed, trends established and reports produced” the NCC “did not have an adequate performance management system to maintain records to enable reliable reporting on achievement of targets. Sufficient, appropriate audit evidence could not be provided in some instances while in other cases the evidence provided did not agree with the recorded achievements”. Therefore, there was a “misstatement of the target achievement reported as the evidence provided indicated that it was 55% and not 100%”.

* + 1. Financial Performance

The NCC received a transfer of R56.6 million from the DTI. It also received interest income of R1.6 million and R3.8 million from services in kind. This brought its total income to R62.2 million, 6.7% (R3.9 million) more than the projected income.

Expenditure for the financial year totalled R62.9 million. Expenditure for the period was more than income received; hence, the NCC had an operating deficit of R734 620.

Employee-related costs amounted to R40.7 million or 65% of total expenditure. Employee-related costs were more than the budgeted amount, or an over-expenditure of R341 626.

Table 9: Income and expenditure for the 2016/17 financial year

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Final Budget** | **Actual Amounts** | **Variance** | **% Variance** |
| **Income** | | | | |
| Government grants | 56 643 000 | 56 643 000 | - | 0.0% |
| Services in kind | - | 3 888 758 | 3 888 758 |  |
| Interest received - investment | 1 606 000 | 1 638 697 | 32 697 | 2.0% |
| **Total revenue** | **58 249 000** | **62 170 455** | **3 921 455** | **6.7%** |
| **Expenditure** | | | | |
| Personnel | 40 381 000 | 40 722 626 | 341 626 | -0.8% |
| Depreciation and amortisation | 1 261 000 | 827 814 | 433 186 | 34.4% |
| Repairs and maintenance | 196 000 | 179 477 | 16 523 | 8.4% |
| General expenses | 16 411 000 | 21 175 158 | 4 764 158 | 29.0% |
| **Total expenditure** | **58 249 000** | **62 905 075** | **4 656 075** | **8.0%** |
| **Operating deficit** | **-** | **-734 620** | **-734 620** |  |
| Loss on disposal of assets | - | -241 916 | -241 916 |  |
| **Deficit before taxation** | **-** | **-976 536** | **-976 536** |  |

Source: National Consumer Commission (2017: 83-103)

* + 1. Human resources

For the financial year, the NCC had an approved structure of 85 positions. By the end of the financial year, the NCC had 77 employees and 8 vacancies. This translated to a 9.4% vacancy rate. During the financial year, 5 employees resigned, 1 employee retired, and 2 employment contracts expired.

In terms of misconduct and disciplinary actions, there were 10 final written warnings, and 6 written warnings.

* + 1. Audit outcomes

The NCC received an unqualified audit with findings. The Auditor-General highlighted the following:

* Two areas were identified that required interventions, namely (i) regular, complete and accurate financial statements and performance reports and (ii) review and monitoring of compliance.
* Six areas of concern, namely (i) oversight responsibility; (ii) policies and procedures; (iii) audit action plans; (iv) proper record keeping; (v) daily and monthly controls of financial records; and (vi) design and implementation of Information Technology (IT) controls.

Furthermore, the Auditor-General noted that the NCC had incurred irregular expenditure of over R7 million during the financial year due to proper supply chain regulations not being followed. The NCC reported that 76% of the irregular expenditure amounting to R5.4 million related to irregular expenditure incurred in the prior financial years, whereas, 24% amounting to R1.7 million related to irregular expenditure incurred in the 2016/17 financial year.

* 1. Financial and non-financial performance as at 30 June 2017[[8]](#footnote-8)
     1. Non-financial Performance

A total of 18 performance targets were planned for the first quarter. Fifteen targets were achieved or exceeded while three were not achieved. Of the targets not achieved, one pertaining to procurement of the opt-out registry is a target that was not achieved in the 2016/17 financial year and was transferred to the current financial year. The other two targets were in relation to the processing of complaints which had been at 83% for the quarter against a target of 95% and the development of Terms of Reference for the research project on the Consumer Protection Act.

* + 1. Financial Performance

In the first quarter of the 2017/18 financial year, the NCC received a transfer of R13.2 million from the DTI, and a further R464 000 was generated from interest income. Thus total income for the quarter was R13.6 million, this was slightly more than the budgeted income.

The NCC spent R12.6 million, against budgeted expenditure of R13.6 million. Thus, the NCC had a surplus of R928 783. By the end of the quarter, total expenditure was at 23.3% of the annual budgeted expenditure. Total underspending was approximately 6.8% of budgeted expenditure. The main sources of under-expenditure was underspending on inquiry expenses, employee costs, legal fees and consultant costs. The R533 500 budget for inquiry expenses had not been spent, as the first hearing on the timeshare inquiry would be in the second quarter. Underspending on employee costs was R311 976; however, this was only 3% less than budgeted. Legal fees were 80% less than budgeted for during the period based on actual work done by external attorneys on NCC litigation matters. Consultant costs were also not spent as procuring project management services for the opt-out register had still been in progress.

The main expenditure items for the quarter were employee-related costs (81.8% of total expenditure) and general expenses (18.2% of total expenditure).

* 1. Key issues raised by the Committee

The following concerns were raised related to the performance of the NCC during the Committee’s deliberations:

* + 1. ***Key control measures and the need for intervention:*** The Committee noted with concern that a number of key control measures had been compromised. These control measures are critical for the NCC in terms of meeting good governance principles and to receive an unqualified audit with no findings. The Committee enquired to the measures being implemented to address these shortcomings with respect to the NCC’s financial and performance management. The NCC acknowledged the challenges identified by the Auditor-General but informed the Committee that the audit action plan had been developed to address the shortcomings to improve its internal control systems. They informed the Committee that progress had been made in relation to the Auditor-General’s findings with respect to the quality of financial information and supply chain management.
    2. ***The high number of disciplinary cases:*** The Committee was concerned with the high number of disciplinary cases and enquired whether these were addressed. The NCC informed the Committee that most of these cases related to poor performance and not misconduct. They also acknowledged the concerns raised by the Auditor-General around consequence management and are in the process of addressing this.
    3. ***Number of vacancies:*** The Committee noted the number of vacancies and enquired whether these vacancies were in critical positions and if they were subsequently filled. The NCC informed the Committee that all vacant posts had been filled or were about to be filled.
    4. ***Training and skills development:*** The Committee had been aware of the human resource challenges at the NCC and that the skills available, did not necessarily match what was required. The Committee enquired whether the NCC had developed an employee training programme that would ensure that employees acquired the necessary skills for the NCC to fulfil its mandate. The NCC informed the Committee that training especially for managers had been completed. It had done a skills assessment and that the necessary job training programme would commence in the 2017/18 financial year, budget permitting.

1. National Credit Regulator

The NCR falls under the Consumer and Corporate Regulation Division within the DTI. The NCR was established under the National Credit Act (No. 34 of 2005) and is responsible for the regulation of the South African credit industry in terms of consumer protection. It is tasked with carrying out consumer credit education and public awareness campaigns, research, policy development, registration of industry participants, investigation of complaints, and ensuring the enforcement of the Act.

The Act requires the NCR to promote the development of an accessible credit market, particularly to address the needs of historically disadvantaged persons, low income persons, and rural communities. It is also tasked with the registration of credit providers, credit bureaux, debt counsellors, payment distribution agents (PDAs) and alternative dispute resolution agents; and with the enforcement of compliance with the Act as amended.

* 1. Performance for the 2016/17 financial year
     1. Non-Financial Performance

For the 2016/17 financial year, the NCR had five programmes each addressing one of its strategic objectives. It set 15 performance targets for the 2016/17 financial year, of which ten targets were achieved while five targets were not achieved. The table below shows achievement of performance targets by strategic objective.

**Table 10: Performance targets by Strategic Objective**

| **Strategic Objective** | **Performance Indicators/Targets** | |
| --- | --- | --- |
| **Number** | **Description of unachieved targets** |
| **Strategic objective 1:** To promote responsible credit granting | Achieved: 1  Not achieved: 1 | Although the NCR had concluded more than the planned 40 investigations into compliance in relation to the total cost of credit, it had still been in the process of concluding enforcement actions on these. The NCR had prioritised concluding outstanding enforcement action from the prior year and had addressed seven matters for the financial year under review. It also noted that a new enforcement approach had recently been adopted to fast track enforcement actions. |
| **Strategic objective 2:** To protect consumers from abuse and unfair practices in the consumer credit market and address over-indebtedness | Achieved: 1  Not achieved: 1 | Although the NCR had concluded more than the planned 60 investigations reckless lending, it had still been in the process of concluding enforcement actions on these. The NCR had prioritised concluding outstanding enforcement action from the prior year and had addressed 14 matters for the financial year under review. It also noted that a new enforcement approach had recently been adopted to fast track enforcement actions. |
| **Strategic objective 3:** To enhance the quality and accuracy of credit bureau information | Achieved: 2 |  |
| **Strategic objective 4:** To improve NCR’s operational efficiency | Achieved: 2 |  |
| **Strategic objective 5:** To ensure effective implementation of the National Credit Act as amended | Achieved: 4  Not achieved: 3 | The NCR achieved or exceeded its investigations targets for:   * Prescribed debt, * Garnishee orders, and * Unregistered or new entrants.   However, it had not concluded enforcement actions portions on the abovementioned matters, due to outstanding matters from the previous year being prioritised. |

Source: National Credit Regulator (2017a)

* + 1. Resources

For the financial year, the NCR had an approved structure of 189 employees, of which 148 posts were filled at a cost of R70.1 million (56% of total expenditure for the financial year). This translated to a vacancy rate of 21.7% with 41 posts remaining unfilled. The majority of the vacancies were in Programme 2 dealing with consumer protection (46.3% of total vacancies), followed by Programme 4 responsible for operational efficiency and service delivery (34.1% of total vacancies), and Programme 1 responsible for compliance by credit providers (12.2% of total vacancies).

In terms of employment equity, 91.2% of all employees are black, 66.2% are female and 1.4% have disabilities, while 60% of top and senior management are female and 100% are black.

Other human resource matters that the entity dealt with during the financial year are the following:

* There were 27 terminations of employment, 13 of which were resignations mainly related to being able to attain better compensation and benefits.
* A total of five employees were promoted into another salary level.
* There were two dismissals.
* The NCR undertook a skills audit to profile its employees correctly. This resulted in a number of employees being moved to positions where they are able to add more value, based on their background. Some staff members were promoted; while others were transferred to different departments enabling them to make valuable contributions within the respective departments. This also enhanced cross-functional awareness within the business.
* There was a partnership with The Learning Organisation from January 2016 to October 2016 on a ten-month pilot project where five learners were given the opportunity to acquire work based experience and training at no cost to the NCR. The learners obtained an end-user, NQF level 3 Computing Certificate and three learners were absorbed into the NCR on a permanent basis in the Call Centre and Registrations Department. A further learner was contracted for a year in the Finance department.
* Bankseta assigned two learners to the NCR for the 2017/18 financial year. The learners commenced their learnership on 16 February 2017.

The NCR expressed challenges in terms of meeting its disability targets and having inadequate office space.

* + 1. Financial Performance

In the 2016/17 financial year, the NCR’s budgeted income was approximately R127.2 million; however, actual income was lower than budgeted at R120.4 million (94.7% of budgeted income). The largest share of income was acquired from the transfer payment from the DTI amounting to R69.6 million (57.8% of total income). The second largest source of income was fee revenue at R34 million (28.3% of total income) for the financial year. However, this was R7.8 million lower than budgeted due to the approved Regulations pertaining to a new renewal date of 31 July 2017 for all registrants. Renewal fees for all registrants whose renewal dates are after 31 August 2016 were therefore pro-rated for alignment to this new date. This impact had not been taken into account in the 2016/17 budget.

**Table 11: Financial Performance**

|  | **2015/16** | **2016/17** | |
| --- | --- | --- | --- |
| **Final budget (R)** | **Actual (R)** |
| **Revenue** | | | |
| Interest received - investment | 1 054 695 | 1 620 000 | 1 700 270 |
| Other revenue from exchange transactions | 886 621 | - | 99 777 |
| Fee revenue | 32 900 685 | 41 886 606 | 34 028 665 |
| Transfer payment | 66 899 044 | 69 577 000 | 69 577 000 |
| Other revenue from non-exchange transactions | 5 657 229 | 14 100 000 | 15 000 357 |
| **Total Revenue** | **107 398 274** | **127 183 606** | **120 406 069** |
| **Expenses** | | | |
| Personnel expenditure | (72 266 955) | (76 560 238) | (70 120 975) |
| Operating expenses | (17 160 705) | (22 489 537) | (20 117 568) |
| Finance costs | (2 234) | - | (199) |
| Administrative expenses | (18 368 445) | (21 783 948) | (23 290 333) |
| Depreciation and Amortisation | (6 398 332) | - | (5 369 912) |
| **Total expenditure** | **(114 196 671)** | **(120 833 723)** | **(118 898 987)** |
| **Operating surplus/(deficit)** | **(6 798 397)** | **6 349 883** | **1 507 082** |

Source: National Credit Regulator (2017a)

Other sources of income include other revenue from non-exchange transactions of R15 million mainly from PDAs in terms of their approved interest utilisation policy (97.3% of other revenue received) and prescribed income in terms of the Prescription Act (2.7% of other revenue received), interest income of R1.7 million and other revenue from exchange transactions of R99 777 in terms of skills development levy recovered, reimbursements and proceeds from an insurance claim.

Expenditure for the financial year was projected at R120.8 million while actual expenditure was R1.9 million (1.6%) less than budgeted. The main expenditure was on personnel costs (R70.1 million or 59% of total expenditure). However, this was underspent by R6.4 million due to resignations during the year. Personnel expenditure also declined by 3% since the 2015/16 financial year with 13 resignations during the financial year under review.

Administrative expenses were R23.3 million (19.6% of total expenditure), which increased by 26.8% since the 2015/16 financial year. This increase was primarily due to an increase in general expenses of 44.5% compared to the 2015/16 financial year, in particular travel and accommodation increased by 100.3%, while bad debts increased by 77.5%, bank charges by 24.9% and audit and risk management fees by 23.7%. Furthermore, expenditure on information technology increased by 58%, followed by recruitment costs (42%) and communication costs (28.2%).

In terms of operating costs, the NCR spent R20.1 million, 11.8% more than the budgeted allocation. However, this was 17.2% more than the prior financial year. The largest proportion of operating expense was for professional fees (56.7% of operating expenses), which showed a savings of R1.4 million for the 2016/17 financial year due to on-going legal processes. This was a 29.9% increase since the 2015/16 financial year. The second largest proportion was spent on consumer education (33.5% of operating expenses), which increased by 32.6% since the 2015/16 financial year.

* + 1. Auditor-General’s Report

The NCR received an unqualified opinion with findings. The Auditor-General’s Office made the following findings:

* Management had not exercised sufficient oversight regarding financial reporting, in relation to the misstatements identified in the financial statements.
* Management had not prepared accurate and complete financial statements supported by reliable information in relation to the misstatements identified in the financial statements.

However, the material misstatements of receivables from non-exchange and disclosure on payables from non-exchange, identified by the auditors in the submitted financial statement were corrected, which resulted in the financial statements receiving an unqualified audit opinion.

* 1. Financial and non-financial performance as at 30 June 2017[[9]](#footnote-9)
     1. Non-financial Performance

The NCR had 13 performance targets for the quarter, all of which were achieved. It continued to perform well with most of its performance targets for the quarter exceeded. The first quarter report further showed that issues identified by the Auditor-General as challenges were being addressed (outlined in the risk register).

* + 1. Financial performance

For the first quarter of the 2017/18 financial year, its budgeted income was approximately R49.5 million; however, actual income was lower at R47.2 million. The funding through transfers from the DTI was the largest source of income at R43.8 million. The second largest share of budgeted income was to be acquired from fees from registrants amounting to R4.1 million. The actual income from these fees was 44.5% lower than the budgeted income Other income received was R1.1 million, 32.6% lower than the budgeted amount of R1.6 million.

Total expenditure was R27.1 million, 8.2% below budgeted expenditure. The personnel costs accounted for 68.4% of total quarterly expenditure. Programme costs was R2.8 million, 38.2% below the budgeted amount. Expenditure on administrative costs was R5.7 million, 3.9% more than the budgeted amount

* 1. Key issues raised by the Committee

The following concerns were raised related to the performance of the NCR during the Committee’s deliberations:

* + 1. ***Poor auditing performance:*** The Committee noted the concerns raised by the Auditor-General about the poor auditing performance of the NCR. There had been a significant decline in the key control measures which could lead to a qualified audit in future if the decline was not addressed. The Committee enquired whether the NCR had taken the necessary measures to address this, and if the DTI would consider taking steps against entities that had showed a significant decline in their auditing practices. The NCR informed the Committee that the concerns raised by the Auditor-General related to leadership and oversight responsibility. The Auditor-General alo raised a concern around the methodology used with respect to non-exchange transactions and whether the correct accounting principle was applied, namely Application of Generally Recognised Accounting Practice(GRAP 1 or GRAP 23).
    2. ***Application of GRAP 1 and GRAP 23:*** The Committee requested that the NCR provide an explanation around GRAP 1 and GRAP 23 as it related to other revenue from non-exchange transactions received from the PDAs. The NCR informed the Committee that it had adopted an accounting treatment for the interest earned by PDAs and transferred this to an NCR account in the 2015/16 and 2016/17 financial years in terms of principles of GRAP 1. GRAP 1 sets out the overall accounting framework and responsibilities for the preparation and presentation of financial statements, guidelines for their structure and minimum requirements for their content. GRAP 1 should be read in conjunction with a Framework for the preparation and presentation of Annual Financial Statements, which forms the basis of a definition, recognition and measurement of elements to financial statements, such as assets, liabilities, revenue, expenses, etc. Revenue from non-exchange transactions (GRAP 23) arises when an entity receives value from another entity without directly giving approximately equal value in exchange. Common examples of non-exchange revenue transactions are equitable share allocations and grants received by entities, taxes levied, fines issued, and donations in cash, goods or services. Revenue from non-exchange transactions are accounted for using the ‘assets and liabilities’ approach rather than using an ‘earnings’ approach which is followed for exchange revenue.
    3. ***Office space challenges facing the NCR:*** The Committee enquired to the challenges facing the NCR with regard to office space. The NCR informed the Committee that it currently did not have sufficient office space to house its current staff complement of 150 people. It has a projected staff complement of 200 people, which could not be accommodated in its current location. The NCR informed the Committee that it needs to acquire suitable premises for the following reasons:
       - Its current premises posed serious health hazards and risks to all employees.
       - In cases of emergency, the NCR would incur high maintenance costs to repair any damages that may occur.
       - The current high maintenance cost, to ensure that the premises comply with standards as required by the National Building Regulations and Building Standards Act (No. 103 of 1977), puts a strain on its current budget.
    4. ***Vacancy rate***: The Committee requested an update on the current vacancy rate within the NCR. The NCR informed the Committee that the vacancy rate currently stands at 18.4%. Four of these vacancies were in critical positions. The NCR alluded to the fact that many of its senior staff had been poached by banks and therefore it had lowered the level at which officials were appointed.
    5. ***Labour relations:*** The Committee enquired into the reasons for the dismissals at the NCR. The NCR informed the Committee that two of its employees were dismissed during the period under review. One individual was charged with assault and the other with misrepresentation of their qualifications. In both cases, due process was followed.

1. National Regulator for Compulsory Specifications

The NRCS falls under the Industrial Development Division within the DTI. It was established on 1 September 2008, as a national regulatory agency. Its mandate is to promote public health and safety, environmental protection and fair trade through the administration of compulsory specifications and/or technical regulations. It protects consumers and the environment against unsafe and harmful products. Thus, it is meant to ‘lock out’ non-compliant products from being traded in the domestic market by approving products and ensuring compliance by means of surveillance at the ports of entry into South Africa and within the country.

The NRCS’ four strategic objectives are to:

* Develop, maintain and administer compulsory specifications and technical regulations,
* Maximise compliance with all specifications and technical Regulations,
* Inform and educate NRCS’s stakeholders on the mandate of the NRCS, and
* Ensure an optimally capacitated institution
  1. Performance for the 2016/17 financial year
     1. Non-financial Performance for the 2016/17 financial year

For the 2016/17 financial year, the NRCS had twelve performance targets. Only threetargets were achieved while nine targets were not achieved. The table below shows performance targets by strategic objective.

**Table 12: Performance targets by Strategic Objective**

| **Strategic Objective** | **Performance Indicators/Targets** | |
| --- | --- | --- |
| **Number** | **Description of unachieved targets** |
| **Strategic Goal 1:** Develop, maintain and administer VCs and TRs | Achieved: 0  Not achieved: 2 | * Development of compulsory Specifications: five were developed against a target of ten. * Review of Board decisions reviewed within 30 days: 80% of the decisions were reviewed against a target of 100%. |
| **Strategic Goal 2:** Maximise compliance with all specifications and TRs | Achieved: 2  Not achieved: 5 | * Inspections on food and fishery production in factories and vessels: 1 989 inspections done against a target of 2 135, as less requests were received from industry*.* * Letters of Authority (LOAs) issued within 120 working days: 36.5% less than the target. Approximately 53.5% of LOAs were issued within 120 calendar days against a target of 90%, mainly due to backlogs and capacity constraints in the electro-technical unit. * Number of self-compliant companies: 0 against a target of eight, as framework agreements were not completed. * Cases referred for prosecutions with respect to repeat offenders: less than 1% of cases were referred against a target of 15%. * Issuing of approval certificates on regulated products: 72% achieved against a target of 75% |
| **Strategic Goal 3:** Inform and educate our stakeholders about the NRCS | Achieved: 1 |  |
| **Strategic Goal 4:** Ensure an optimally capacitated institution | Achieved: 0  Not achieved: 2 | * Vacancy rate at 12% against a target of 6%. * Development, approval and implementation of the ICT Master System Plan (MSP): the system was developed, however, it was not finalised due to the need to factor in the modernization of the NRCS. |

Source: National Regulator for Compulsory Specifications (2017a)

Other areas that the Committee had previously raised concerns with were the NRCS’ performance in terms of the processing of Letters of Authority (LOAs) and the risk-based approach to processing LOAs.

Since the 2014/15 financial year, there had been an increase in the number of LOA applications received and applications with non-compliant findings; however, there was no corresponding increase in capacity within the NRCS to match the increased demand due to financial constraints.  This situation created challenges with the processing of LOAs in the Electro-technical Business Unit, with applications consistently taking more than 120 working days to process. This timeline was then changed into 120 calendar days resulting in an increased backlog in this area. Throughout the financial year, the Committee regularly engaged the NRCS on the matter and the entity put in place measures to address this challenge. Among the interventions was capacitating the unit with more employees from the other Business Units where there was a lower workload.

For the 2016/17 financial year, the NRCS reported a significant increase in approvals of LOAs and a decrease in the backlog. The table below provides LOA’s statistics for the 2016/17 financial year in comparison with the previous financial year (2015/16).

**Table 13: LOAs Processing during 2016/17**

| **2015/16** | |  | **2016/17** | |
| --- | --- | --- | --- | --- |
| Opening Balance: 1 April 2015 | 3 577 |  | Opening Balance: 1 April 2016 | 4 287 |
| New Applications: 2015/16 | 11 578 |  | New Applications: 2016/17 | 12 701 |
| Workload | 15 155 |  | Workload | 16 988 |
| Approvals | (8 458) |  | Approvals | (12 122) |
| Closed | (2 412) |  | Closed | (1 911) |
| **Closing Balance: 31 March 2016** | **4 285** |  | **Closing Balance: 31 March 2017** | **2 955** |

Source: National Regulator for Compulsory Specifications (2017a)

The statistics on the processing of LOAs show that in comparison to 2015/16 financial year there were an additional 1 123 applications, while approvals also increased by 3 664 in the 2016/17 financial year. Thus, the workload increased by 1 833 LOAs. However, the number of applications being carried over to the next financial year decreased by 1 330 applications. It therefore appears that the NRCS is making some progress in addressing this challenge inspite of increased demands for this service.

The increase in new applications is said to be mainly due to the NRCS’s Border Enforcement Strategy and the implementation of the new compulsory specification for energy efficiency. In November 2014, the Minister of Trade and Industry declared a new compulsory specification, “Compulsory Specification For Energy Efficiency And Labelling Of Electrical and Electronic Apparatus (VC 9008)”, to be implemented in three phases for a period of up to 18 months[[10]](#footnote-10). According to the NRCS, the training of inspectors and lack of readiness of the test facilities had resulted in a bottleneck of processing energy efficiency LOAs.

The risk-based approach was a pilot project that would ensure that the renewal of LOAs is expedited. Certain aspects were being manually implemented and the risk profiling of retailers for the self-compliance project had been halted until this backlog is addressed. Furthermore, the NRCS undertook ICT modernisation so that the risk-based approach can be fully implemented.

During the financial year, the risk-based approach was piloted in both pre-market approvals and post-market surveillance*.* However, the ICT modernisation project pertaining to the risk-based approach portion was not fully developed and implemented because the project was suspended while resources were dedicated to the LOA backlog.

* + 1. Human Resources

For the financial year, the NRCS had an approved structure of 329 employees; however, for the period, 289 posts were filled at a cost of R258.2 million (79% of total expenditure for the financial year). This translated to a vacancy rate of 12% with 40 posts remaining unfilled. It is important to note that during the financial year a number of critical posts became vacant, these included the Chief Executive Officer and the Chief Financial Officer. Additionally, the post of Deputy Chief Executive Officer, Head of Enforcement/Chief Operations Officer, General Manager: Automotive, General Manager: Chemicals Materials and Mechanicals, General Manager: National Building Regulations, and Senior Manager: ICT were vacant. In a response to the Committee’s questions on the vacancies in February 2017, the NRCS said that some of the posts would be advertised in March 2017, while others would only be advertised after the organisational review that it was undertaking during the financial year. There were other vacant posts in the core business units such as (6 posts), Foods and Associated Industries (5 posts), and Legal Metrology business unit (5 posts). One position was filled during the financial year.

Other human resources matters that the entity dealt with during the financial year were the following:

* There were eleven terminations of employment, seven of which were resignations.
* A total of eleven employees were promoted into another salary level.
* There were two precautionary suspensions which were more than 30 days at a cost of R1.5 million.
* The NRCS undertook a job evaluation process and the outcomes showed that some salaries that were paid to employees exceeded the job grade. Eighty-five employees (27% of employees) were paid salaries that were above the job grade. In the 2016/17 financial year, the NRCS undertook 17 wage negotiations in respect of job evaluation outcomes and agreements were made that differentiated management level from bargaining unit level. Four (4) employees who were left within the bargaining level (IT Network Specialist, IT Security Specialist, Legal advisor and PR Media Specialist) took their matter to the Commission for Conciliation, Mediation and Arbitration (CCMA) as they were excluded by the wage agreement implementation to form part of the management level.  These employees received a CCMA ruling in their  favour  in agreement that they must be at management  level.
* In terms of labour relations, there were one dismissal, one case of fraud and absenteeism, and six grievances lodged.
  + 1. Financial Performance

In the 2016/17 financial year, the NRCS’s budgeted income was approximately R374.6 million; however, actual income was lower than budgeted at R354.3 million. The largest share of budgeted income was to be acquired from services rendered, in particular levies for compulsory specifications amounting to R193.4 million. The funding through transfers from the DTI was the second largest source of income for the NRCS at R86.4 million for the financial year, accounting for the fact that funding from the DTI declined by R5.3 million from R91.7 million in the previous financial year (2015/16). Other sources of income included income from services rendered amounting to R50.7 million, and other income totalling R23.6 million.

Expenditure for the financial year was projected at R374.4 million while actual expenditure was R48 million (13%) less than budgeted. The R48 million underspending was attributed to underspending in compensation to employees (R16.3 million), contract services (R5.7 million), tests and sampling (R5.5 million), marketing and advertising (R4.8 million), travel expenditure (R4.4 million), office rentals and other operating expenses (R1.5 million), and other expenditure (R12.8 million).

Notwithstanding that the savings were due to the resignations at senior management level and other vacancies, the largest expenditure for the NRCS was compensation to employees with almost 80% of the expenditure for the 2016/17 financial year. This had increased significantly over the past five financial years and appeared to be unsustainable, in the past two years compensation on employees increased by approximately 9% which was above inflation. In the two years prior, compensation of employees had increased by between 20% and 22%. Earlier this year, the Committee had raised concerns with this and the entity had committed to reviewing the promotions policy, which was a major contributor to the increase in the budget for compensation of employees.

**Table 14: Financial Performance**

|  | **2015/16** | **2016/17** | |
| --- | --- | --- | --- |
| **Approved budget (R)** | **Actual amount (R)** |
| **Income** | | | |
| Levies for compulsory specifications | 154 590 878 | 186 178 385 | 193 451 259 |
| Transport annual registration fee | 1 798 975 | 1 908 393 | 1 831 127 |
| Government grants and core funding | 91 732 000 | 86 418 000 | 86 418 000 |
| Revenue from services rendered | 45 223 056 | 48 296 585 | 50 790 456 |
| Other income | 2 188 204 | 38 201 254 | 5 204 501 |
| **Revenue** | **295 533 113** | **361 002 617** | **337 695 343** |
| **Expenses** | | | |
| Advertising and marketing expenses | 5 023 486 | 6 122 454 | 1 307 452 |
| Amortisation of intangible assets | 835 953 | 840 000 | 835 953 |
| Contract services | 8 608 946 | 14 346 135 | 8 650 347 |
| Depreciation | 2 446 636 | 3 588 204 | 3 435 903 |
| Employment cost | 237 057 787 | 274 452 883 | 258 177 099 |
| Impairment | - | - | 3 188 602 |
| Office rentals and other operating lease expenses | 12 351 607 | 13 962 660 | 12 411 127 |
| Tests and sampling | 4 897 834 | 8 834 427 | 3 263 463 |
| Travel expenditure | 16 427 813 | 19 982 227 | 15 617 554 |
| Other expenditure | 20 660 745 | 32 317 960 | 19 473 139 |
| **Expenses** | **308 310 807** | **374 446 950** | **326 360 639** |

Source: National Regulator for Compulsory Specifications (2017a)

**Figure 3: Expenditure by Category**

Source: National Regulator for Compulsory Specifications (2017a)

* 1. Financial and non-financial performance as at 30 June 2017[[11]](#footnote-11)
     1. Non-financial Performance

For the first quarter, the NRCS had nine performance targets. Of those targets, five were achieved and exceeded while four were not achieved. The targets that were not achieved related to the same challenges that the NRCS had in the past financial year. In particular, the processing of applications in the electro-technical unit. Another challenge that it had this quarter was in respect of vacancies. It continued to receive resignations in addition to the past financial year’s vacancies which remained unfilled due to its need to contain its wage bill. This may pose a challenge for the entity as there were capacity challenges in the core business areas.

* + 1. Financial Performance

For the first quarter of the 2017/18 financial year, its budgeted income was approximately R101.9 million; however, actual income was lower than budgeted at R71.5 million. The funding through transfers from the DTI was the largest source of income for the NRCS at R43.5 million. The second largest share of budgeted income was to be acquired from levies from compulsory specifications amounting to R37.8 million. The actual income was 79.4% lower than the budgeted income from these levies. Income from services rendered was 17.7% lower than the budgeted amount of R14.5 million.

Total expenditure was 30.3% below budget. The compensation of employees and expenditure accounted for 88% of total expenditure. Expenditure on goods and services was 64.6% below the budgeted amounts.

* 1. Key issues raised by the Committee

The following concerns were raised related to the performance of the NRCS during the Committee’s deliberations:

* + 1. ***Assurance and key control measures:*** The Committee noted with concern that the NRCS had received a qualified audit opinion with findings relating to its compulsory specification levies, and financial reporting and supply chain management. The Committee enquired whether the NRCS had developed an action plan to address the audit findings. The NRCS informed the Committee that its audit plan was being discussed with the Auditor-General and that they have agreed on a target to address all Human Resource policies by end of November 2017.
    2. ***Status of the Ford Kuga Investigation:*** The Committee acknowledged the work done by the NRCS to ensure product safety for consumers and enquired into the status of the investigation into Ford Kuga. The NRCS informed the Committee that recent media reports had highlighted that despite the efforts by Ford Motor Company of Southern Africa (FMCSA) to recall and replace the coolant system parts which were identified as the source of the fire problem, cases of fires continued to be reported. FMCSA had already implemented a stage 2 recall, where vehicles were to be upgraded so that any detection of high temperatures on the engine compartment would be reported on the dashboard in order to alert the driver. It has now been alleged that the fires on the Ford Kuga could also be attributed to the vehicle electronics system as opposed to the findings of the investigation by FMCSA where it was concluded that the fires were caused by a failed engine cooling system. Upon media alerts on the burning of Ford Kuga vehicles, the NRCS joined forces with the NCC in various platforms where the matter was discussed. The NRCS provided expertise on the regulatory requirements so that if there were any violations of the requirements of the compulsory specification, sanctions could be implemented. Through these engagements, the NRCS understood that:
  + The vehicle models in question had been approved by the NRCS in March 2013, and a total of 4 556 motor vehicles were imported and offered for sale in South Africa.
  + In 2014, an approval was issued for the 1.5l Ford Kuga model and subsequently, the 1.6l Eco boost model was no longer available in the South African market.
  + The FMCSA investigation revealed that all vehicles examined after the engine fires were found to have cracked engine cylinder heads and the FMCSA was of the view that the oil could have escaped through the cracks and fallen onto the engine exhaust system where the vehicle would catch alight. The coolant reservoir and carrier pipes were found to be unable to resist high temperatures causing cracks after being in use for some time. Such cracked pipes and coolant reservoirs resulted in the leaking of coolant from the system and therefore not providing sufficient coolant to the engine.
  + FMCSA was to recall affected vehicles for the following procedures: (i) checking the concentration of coolant, (ii) checking cooling system for leaks and damage, (iii) conducting static and dynamic cooling system pressure test, (iv) changing the coolant carrier pipes and re-routing the returning pipe from the turbo charger and connecting it to the outlet pipe from the reservoir leading to the radiator, and (v) implementing a stage 2 recall as a means of ensuring that there are no further failures of the system and improvement of the cooling system.

The NRCS, based on the above rationale, concluded that the relevant compulsory specification does not specify requirements which relate to the cause of the fires. It has however requested that the FMCSA should keep it updated on any developments on the matter. After implementation of the recall, only one case had been reported in August 2017. During the arranged meeting between the NRCS and FMCSA on 28 September 2017, it was reported that the stage 1 recall was at 94% completion whilst stage 2 was at 67% completion. The FMCSA officially stated that there had been six fire incidences reported for vehicles after stage 1 recall. The NRCS would continue to engage with the FMCSA to conduct its own investigation into this matter.

* + 1. ***Status of regulations on vehicle systems technologies:*** The Committee enquired whether the NRCS had any standards for electronic components or computers within vehicles. The NRCS informed the Committee that vehicle safety and environmental protection are amongst others, the driving factors in the improvement of technology within the automotive industry. The recent vehicle systems technologies seek to take control of the vehicle in the event of an emergency, as it has been established that most road accidents are caused by the inability of the driver to control the vehicle under these circumstances. The United Nations European Commission for Europe World Forum for Harmonization of Vehicle Regulations (UNECE WP 29) provides for administration of international vehicle regulations which can be adopted by any of the contracting parties under the designated agreements. One of the biggest topics on this forum lies in the field of self-drive/autonomous vehicles where a regulatory framework to support the introduction of these emerging technologies must be established. Although the self-drive technology is already available, there are no vehicle regulations or rules which support this technology.

Currently, autonomously driven vehicles are being manufactured and developed taking into consideration the UNECE Regulations that address safety. One regulation that is required to be amended is the vehicle steering requirements, as such vehicles are not dependent on the steering wheel for directional control. Article 8 of the Vienna Convention on Road traffic rules deals with the fact that the driver must be in control of the vehicle, it is thus this agreement that also has to be amended. The Convention is about road operational requirements which covers amongst others, vehicle safety, driver requirements, registration plates, and drivers’ licences. Noting the developments, UNECE WP29 is very interested in the subject of autonomous driving vehicles and the project to amend Article 8 of the Vienna Convention is underway. The challenge faced by regulators around the world is that technology is ahead of these technical regulations. In other words, manufacturers of vehicles conduct an extensive research on the improvement of safety, most of which do not negatively impact on current technical regulations. However, these improvements make it necessary to consistently develop new technical regulations or amend existing ones. Technologies such as the antilock braking system (ABS), electronic stability programme (ESP), and pedestrian safety all preceded the relevant technical regulations. Some of these technologies are yet to be specified in the compulsory specifications in South Africa.

When regulations are introduced, they need to be based on scientific research and actual performance data so that the test methods in the regulation can address safety critical items of the system to ensure that the system functions effectively. Most vehicle technical regulations are not design prescriptive in that they do not specify how the system should be designed; however, they specify how the system should perform. Except for electromagnetic interference checks which ensure compliance with the Electronics Communications Act, the South African compulsory specifications do not specify any requirements for vehicle electronics or vehicle computer boxes.

* + 1. ***Interim requirements for e-tolling:*** The Committee enquired whether legal metrology specifications for an electronic tolling system had been developed and if the existing system complied with the necessary standards. The NRCS informed the Committee that the Legal Metrology interim requirements for electronic open road tolling points were approved by the NRCS’s acting CEO in terms of section 22(2)(c) of the Legal Metrology Act (No. 9 of 2014) by signing the Legal Metrology Policy which gave effect to the interim requirements. The Legal Metrology document that specifies the evaluation requirements for the classification of vehicles at open road, electronic tolling points has been effective since 1 August 2016. Currently, there are no legal metrology requirements in the world for this type of system. Therefore, upon finalisation of the Type Approval process, the legal metrology interim requirements will be submitted to the SABS’s standards division to develop a South African National Standard (SANS) document in this regard. The type evaluation process would be used to practically test the interim requirements and rectify any malalignment within the requirements.

The NRCS informed the Committee that the suppliers of the equipment/systems had submitted a type approval application for the type evaluation of the electronic open road tolling points and the project was registered with the NRCS’s Legal Metrology-Type Approval on 30 August 2017. The turn-around time for the Type Approval process is 120 calendar days. The supplier would also be responsible for the verification of the systems and they have applied to the SANAS to become a verification body in terms of SANS10378 for the verification of these systems. The supplier is in the process of developing their own management system and ensuring that their respective verification officers are qualified as part of compliance to SANS10378. The verification body will be designated by the NRCS to perform legal metrology verifications in terms of the Legal Metrology Act once accreditation is in place. Verifications on each e-tolling point should then take place at intervals not exceeding 12 months.

* + 1. ***Status of the electro-technical LOA backlog:*** The Committee welcomed the progress made by the NRCS but was concerned about the remaining backlogs. The Committee enquired to the current status of the backlogs. The NRCS informed the Committee that as at the end of the 2016/17 financial year, the Electro-technical Business Unit had carried over 2 955 applications to the first quarter of the 2017/18 financial year. During the first quarter, 3 545 new applications had been received, creating a total workload of 6 500 applications. During the first quarter, 1 942 applications were approved and 1 076 applications were rejected or cancelled resulting in 3 482 applications being carried over to the second quarter. Out of the approved applications, 1 269 of the 1 942 applications, had been approved within 120 calendar days. From the carried over applications, 229 out of 3 482 applications were over the 120 calendar days. Furthermore, the NRCS appointed six candidate inspectors who were undergoing an accelerated training program. On completion of specific modules, candidate inspectors would be able to evaluate applications. The risk based approach was being fully implemented manually using “checklists” to evaluate applications. Furthermore, this approach has been intensified to include low risk and medium risk applications.
    2. ***Implementation of the Information and Communication Technology (ICT) system:*** The Committee raised its concerns around the delay in the implementation of the upgraded ICT system at the NRCS. Indications had been that the ICT system would be implemented by the beginning of January 2018. The Committee enquired to the status of the ICT system and the reasons for the delay in implementation. The NRCS informed the Committee that the necessary internal skills with respect to the ICT system did reside within the organisation. The NRCS had noted the challenges faced by the CIPC during its modernisation process and learnt valuable lessons in this regard. The modernisation project must be led by a dedicated project manager and it had put the necessary intervention mechanisms in place to ensure the success of this project.

Other factors that contributed to the delay in implementation were the resignations of the project manager and the Chief Financial Officer. Furthermore, the NRCS recognised that change management is critical to ensure successful implementation. Change management processes should assist employees to understand the rationale for the modernisation. The NRCS informed the Committee that it was not in a position to definitively indicate when the modernisation project would be implemented by January 2018, as it had not yet appointed a chief information officer and a project manager. As these positions did not form of part of the structure of the NRCS, it had to develop these job profiles and had been awaiting the evaluation result.

1. South African Bureau of Standards

The SABS falls under the Industrial Development Division within the DTI. It is a statutory body that was initially established in terms of the Standards Act (No. 24 of 1945). Subsequently, there have been a number of legislative reforms and it is now governed by the Standards Act (No. 8 of 2008). The SABS is mandated to:

* Develop, promote and maintain South African National Standards (SANS) to promote access to markets; and advance the socio-economic well-being of South Africa in a global economy.
* Promote quality in connection with commodities, products and services, such as in the localisation of production in support of government’s IPAP and enabling trade.
* Render conformity assessment services and assist in matters connected with facilitating access to markets for South African industries by improving their competitiveness in the global environment.

The core services provided by the SABS include the:

* Development, maintenance and promotion of standards for commodities;
* Assurance, through management system certification schemes, on the effectiveness and validity of a client's management system(s) in terms of quality, safety and good governance;
* Third-party assurance of quality, safety and reliability of products, through product certification schemes, to the consumer[[12]](#footnote-12);
* Testing on a wide spectrum of products across industry sectors and technologies at the SABS’s dedicated test laboratories, situated in Pretoria and at various strategic locations throughout South Africa. These services remain the most comprehensive offered by any single organisation in Southern Africa;
* Third-party consignment inspection services to external purchasing bodies[[13]](#footnote-13); and
* Developing and offering structured training courses for Standards and Specifications.

The SABS also supports socio-economic growth by (i) promoting and supporting design and innovation for the small, medium and micro enterprise (SMME) sector and youth entrepreneurs; and conducting local content verification services in accordance with Preferential Procurement Policy Framework Act (PPPFA) regulations.

* 1. Performance for the 2016/17 financial year[[14]](#footnote-14)
     1. Non-financial performance

For the 2016/17 financial year, the SABS had 12 performance targets as indicated in its APP. The Annual Report indicated that ten of these were achieved.

**Table 15: Non-Financial Performance**

| **Performance Indicator** | **Target** | **Performance Indicators/ Targets** | |
| --- | --- | --- | --- |
| **Number** | **Description of unachieved targets** |
| Increased revenue | Revenue from services  Other income | Achieved:1  Unachieved: 2 | * Target on increasing revenue from services was not met, only R500.9 million was achieved against a target of R634.8 million. * Increasing operating profit was not achieved. The profit was at -8.7% against a target of -6%, as the MTEF grant allocation was reduced by R68 million. |
| Increase in services offered | Achieved: 1 | - |
| SMME and entrepreneurship development | 65 SMMEs and new and existing entrepreneurs for which design, innovation and standardization interventions implemented | Achieved: 1 | - |
| Improvement in stakeholder relations | Produce 4 sector-specific publications | Achieved: 1 | - |
| Modernisation of SABS operations | 1 service lines whose business processes are automated | Achieved: 1 | - |
| Optimisation of property assets of SABS | Progress against the implementation of SABS Property | Achieved: 1 | - |
| Increase in operational effectiveness in Testing and Standards Development | 50% Progress against the implementation of the Standards Action Plan aligned to national priorities  100% Progress against the implementation of the Testing Action Plan to close gaps in servicing Certification customers1 | Achieved: 2 | - |
| Development of technical expertise | 5 technical employees that have completed specialist training with leading partners  2 Doctoral and Masters graduates recruited into Knowledge Hub sectors in support of testing and standards development | Achieved: 2 | - |

* + 1. Financial performance

The SABS income is acquired from commercial operations including testing, certification, training, and standards development, as well as grant funding received from the DTI. For the 2016/17 financial year, the SABS’s revenue amounted to R697.8 million. Of this, R514.6 million was received for commercial activities, R183.2 million from grant funding, and R38.9 million in other income.

The main expense for the SABS was the compensation of employees accounting for 65% of total expenditure at R525.4 million and 72% of total income. Administration and other expenditure accounted for a total of R285.8 million.

* + 1. Audit outcomes

The Auditor-General in the assessment of the SABS’s 2016/17 financial year assessed its financial and non-financial performance reporting. In terms of non-financial performance, the following programmes were assessed:

* Strategic objective 1 - Growth: Increase the use of standardisation and conformity assessment services by broadening the geographic footprint as well as the scope of services offered.
* Strategic objective 2 - Customer/Stakeholder: Put the customer at the forefront of everything we do.
* Strategic objective 3 - Productivity: Improve the operational performance of SABS to enable delivery of quality outputs for customers and the South African economy.
* Strategic objective 4 - Competent and empowered employees: Develop and retain competent workforce that is aligned with the organisation’s mandate.

The outcome of this assessment was that the Auditor-General did “…not raise any material findings on the usefulness and reliability of the reported performance information for the strategic objectives”.

* 1. Financial and non-financial performance as at 30 June 2017[[15]](#footnote-15)
     1. Financial Performance

For the first quarter of the 2017/18 financial year, the entity’s budgeted income was approximately R189.9 million; however, actual income was less at R178.5 million. The SABS had only accrued 21.6% of the annual budgeted income during the first quarter of the financial year. The funding through transfers from the DTI and rental income was R65.2 million, R4.9 million more than budgeted. Rental income is earned from the Construction Industry Development Board, the NRCS and the NCC. Revenue earned from services rendered was R113.3 million compared to a budgeted amount of R129.6 million. The SABS reported that it was in the implementation stage to close this revenue gap.

Total expenditure was 12.4% below budget. The compensation of employees and expenditure accounted for 64.6% of total expenditure. Expenditure on administrative and operating expenditure was 11.8% below the budgeted amounts.

* 1. Issues raised during the deliberations

The following concerns were raised related to the performance of the SABS during the committee’s deliberations:

* + 1. ***Assurance and key control measures:*** The Committee enquired into the reasons for the regression from an unqualified audit report with no findings to an unqualified audit report with findings. A concern for the Committee was that there appeared be a difference of opinion between the SABS and the Auditor-General to the reasons for these findings. TheSABS informed the Committee that it was not using GRAP and that the regression was not due to a change in the accounting framework. The reason provided to the SABS by the Auditor-General was material misstatements identified by the auditors on revenue from group services, other income, other expenditure and related party transactions disclosure between group companies. The material misstatements were subsequently corrected by management resulting in the entity receiving a paragraph on non-compliance with section 55(1)(b) of the Public Finance Management Act. Included in the report were the following internal control weaknesses in the 2016/17 audit report:
  + Management had not exercised sufficient oversight regarding financial reporting, in relation to the misstatements identified in the financial statements.
  + Management had not prepared and completed financial statements supported by reliable information in relation to the misstatements identified in the financial statements.

The Auditor-General confirmed that the SABS’s audit outcome had regressed due to the abovementioned reasons and not due to the change in the accounting framework, as previously implied.

* + 1. ***Action plan to address audit findings:*** The Committee enquired whether the SABS had developed an action plan to address these audit findings. The SABS informed the Committee that it had developed an audit plan to address the findings in relation to group transactions with systems adjustments made to ensure the accuracy of intercompany and interdivisional transactions and disclosures going forward. With respect to performance information, the revenue target was split in the Annual Financial Statements to comply with the Framework for Managing Programme Performance Information. The Shareholder Compact was adjusted to include key performance indicators with deviations requested from National Treasury on required disclosures that could impact competitive advantage of the SABS. Additional quality control has been implemented and templates standardised to ensure the preferential points system would be reflected on the Request for Quotation. With respect to fruitless and wasteful expenditure, adherence to payment terms is being enforced and municipal account payments are being closely monitored.
    2. ***Revenue:*** The Committee noted that the funding allocation from government continues to decrease. It raised its concerns around the ability of SABS to generate its own revenue to compensate for the shortfall. It further enquired whether SABS had developed any measures to generate more revenue. The SABS informed the Committee that it had centralised the sales function with a dedicated focus to grow revenue. A larger and dedicated sales team would be taking a sector-focused approach with very clear revenue targets per person that would include all existing and new products and services. Furthermore, a sales pipeline would be developed to overcome the revenue gap over the next two financial years. The SABS also informed the Committee that daily financial performance tracking capabilities had been developed to ensure that it makes informed decisions. Increasing laboratory capacity through partnership would further increase revenue and reduce delays. The SABS informed the Committee that the business transformation ICT digitisation programme that would enable online customer engagement and contribute to the ease of doing business was on track. These actions would contribute to revenue growth.
    3. ***Infrastructural challenges facing the SABS:*** The Committee was concerned with the aging of the laboratory infrastructure at the SABS. The Committee enquired to the measures taken by the SABS to address this anomaly. The SABS informed the Committee that it had referenced the 1972 laboratory infrastructure. The SABS recognised that the renewal of the laboratory infrastructure is critical for the South African economy to have a scientifically sound laboratory infrastructure to support the various instruments of government. The SABS informed the Committee that renewal of the laboratory infrastructure is paramount notwithstanding the current environment of fiscal and budgetary constraints. It had developed a clear roadmap to leverage its assets and technical expertise to generate income necessary for the renewal of the laboratory infrastructure

PART C: CONCLUDING REMARKS AND RECOMMENDATIONS

1. Conclusions

Based on its deliberations, the committee drew the following conclusions:

9.1 Localisation and local public procurement are critical policy instruments to create an inclusive economy through job creation, and the development of the productive sectors of the economy. However, the Committee emphasised that the non-compliance by government departments and entities across all spheres undermined this objective. The Committee welcomed the DTI’s commitment to strengthen its monitoring capacity over compliance with the local content requirements.

9.2 The DTI confirmed that they had written to the Auditor-General regarding the Committee’s recommendation in its report on the Colloquium on Local Public Procurement dated 13 October 2016 that the Auditor-General includes compliance with local public procurement as part of their audit.

9.3 Foreign direct investment into infrastructure projects is welcomed but the Committee emphasised the need to ensure that locally manufactured products are utilised in these projects. The Committee also agreed that in the 2018/19 BRRR process it would be important to engage with the Presidential Infrastructure Coordinating Committee.

9.4 Progress with respect to the Black Industrialist Programme in promoting the growth of black-owned and managed companies is welcomed by the Committee. The policy and the programme are a key part of government’s broad industrialisation initiatives to expand the industrial base and participation in the manufacturing activities and the economy.

9.5 The Committee welcomed the appointment of the Commissioner of the Broad-Based Black Economic Empowerment Commission and anticipated the impact it would have in terms of improved compliance with the relevant legislation. In terms of the transformation of our economy we need to ensure that control, significant ownership and leadership is a reflection of our society in the same way that our political space reflects this reality.

9.6 The Committee noted with concern the regression with regard to the audit performance of the DTI and entities reporting to it, and stressed the importance of the governance issues but also the technical issues related to shifts from one system to another as exemplified in GRAP and the need for more robust communication between the respective entity and the Auditor-General’s office. It is imperative that this relationship is strengthened so that the Committee can effectively exercise its oversight functions over all the entities falling under the DTI, but especially those facing challenges as identified in the NCC, the NCR, the NRCS and the SABS.

9.7 The Committee noted with concern the decline in the key audit control measures that resulted in the NCC receiving an unqualified audit with findings. However, it welcomed the NCC’s acknowledgment of these challenges and its commitment to fully implement its audit action plan to address these shortcomings. The Committee intends undertaking more frequent engagements with the NCC to exercise more effective monitoring oversight on this entity.

9.8 It is with concern that the Committee had noted that human resource capacity and the availability of appropriate skills within the NCC still remains a challenge. The Committee encouraged the NCC to address its skills gap and provide the relevant training to employees.

9.9 The Committee welcomed the improvement of the NRCS in significantly addressing the backlogs associated with the issuing of Letters of Authority. The Committee is concerned that the NRCS will not be able to meet its December deadline to implement the electronic risk-based approach, which is expected to expedite the issuing of Letters of Authority for low- and medium-risk companies. However, it noted with concern that the target date had shifted, given this reality it was imperative for the NRCS provide the Committee with a fresh time line and a deadline to operationalize the digital electronic platform.

9.10 The Committee urged the NRCS to review technical regulations to address technological advancements in motor vehicles to ensure consumer safety. It was no longer acceptable given the life-threatening dangers to continue to work on a post-mortem approach before taking preventative action.

9.11 In addition, the process leading to the formal verification of the e-tolling system is welcomed to ensure the accuracy of this system. The Committee is of the view that an oversight of this needs to be conducted in loco without warning to ensure that this verification is undertaken within the required 12-month period.

9.12 Notwithstanding that the funding allocation from government to entities had been decreasing, the Committee was concerned with the SABS’ ability to generate its own revenue to compensate for the shortfall. The Committee welcomed the proposal of a SABS’ business plan that seeks to address the financial challenges which would contribute to revenue growth. However, the Committee informed the SABS during its engagement that it would require this business plan with six months, that is before the end of this financial year.

9.13 The Committee acknowledged the challenges associated with ageing laboratory infrastructure and its impact on SABS’s capabilities and service delivery and its ability to support industrial development.

1. Appreciation

The committee would like to thank the Minister of Trade and Industry, Dr R Davies, and the Director-General, Mr L October, the acting Group Chief Operating Officer, Ms N Matomela, the Parliamentary Liason officer, Ms Saroj Naidoo, and all other senior managers of the DTI, as well as the entities and their management, for their cooperation and transparency during this process. The committee also wishes to thank its support staff, in particular the committee secretaries, Mr A Hermans and Mr T Madima, the content advisor, Ms M Sheldon, the researcher, Ms Z Madalane, and the executive secretary, Ms T Macanda, for their professional support and conscientious commitment and dedication to their work. The Chairperson wishes to thank all Members of the committee for their active participation during the process of engagement and deliberations and their constructive recommendations reflected in this report.

1. Recommendations

Informed by its deliberations, the committee recommends that the House requests that the Minister of Trade and Industry should consider:

11.1 Establishing a monitoring mechanism, in consultation with the Minister of Finance, and other relevant Ministers, to ensure compliance with local designations and implementing appropriate sanctions for non-compliance.

11.2 Strengthening the oversight on the implementation of the audit plans and key control measures of the Department and its entities.

11.3 Additional funding for the SABS in the outer of years of the Medium Term Expenditure Framework to upgrade critical ageing technical infrastructure.

The Democratic Alliance and the Freedom Front Plus abstained.

Report to be considered.

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1. Department of Trade and Industry (2016) [↑](#footnote-ref-1)
2. Portfolio Committee on Trade and Industry (2016) [↑](#footnote-ref-2)
3. Portfolio Committee on Trade and Industry (2017) [↑](#footnote-ref-3)
4. Department of Trade and Industry (2016 & 2017a) [↑](#footnote-ref-4)
5. Previously known as the National Lotteries Board. [↑](#footnote-ref-5)
6. Department of Trade and Industry (2017a) [↑](#footnote-ref-6)
7. Department of Trade and Industry (2017b) [↑](#footnote-ref-7)
8. National Consumer Commission (2017b) [↑](#footnote-ref-8)
9. National Regulator for Compulsory Specifications (2017b) [↑](#footnote-ref-9)
10. South Africa (2014) [↑](#footnote-ref-10)
11. National Regulator for Compulsory Specifications (2017b) [↑](#footnote-ref-11)
12. Products that have met requirements specified in the relevant South African National Standards are awarded the SABS Mark, which can be used to support claims of conformity to standards. [↑](#footnote-ref-12)
13. This assists in their purchasing operations, including the production of item descriptions, the preparation of tender documents, the adjudication of contracts and the inspection of deliverables. [↑](#footnote-ref-13)
14. South African Bureau of Standards (2017a) [↑](#footnote-ref-14)
15. South African Bureau of Standards (2017b) [↑](#footnote-ref-15)