
**COMPETITION TRIBUNAL
ANNUAL PERFORMANCE PLAN
2016 – 2017**

**PRESENTATION TO THE PORTFOLIO COMMITTEE:
ECONOMIC DEVELOPMENT**

Presented by

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Alignment with EDD

- **Alignment of Tribunal's legislative mandate with EDD's strategic objectives**
 - ❖ *Promote competition, trade and smart regulation*
 - ❖ *Co-ordinate job drivers, sectors or spatial projects and implementation of the NGP*
 - ❖ *Promote investments, expand industrial funding and entrepreneurship*

Alignment with NSO

- **Alignment of Tribunal's strategic objectives National Strategic Outcomes (NSO) as follows**
 - ❖ *NSO 4 – Decent employment through inclusive growth*
 - ❖ *NSO 6 - Efficient, competitive and responsive infrastructure network*
 - ❖ *NSO 12 – Efficient, effective and development orientated public service and an empowered, fair and inclusive citizenship*

Strategic Focus

- Tribunal is an administrative court
- Therefore we have to be reactive not pro-active
- This constrains how we approach future plans

Strategic Focus

Nevertheless we have 3 broad strategic objectives:

- Ensuring effective and efficient adjudication
- Build and develop effective stakeholder relationships
- Adherence to good corporate governance and sound business practice

Adjudicative Process

- **Objective one – Effective and Efficient**

Adjudication

- ❖ Matters brought before Tribunal heard within adopted delivery time frames
- ❖ Expeditious conclusion of hearings
- ❖ Improved management Information

Large Merger Targets



Merger set down

The percentage of large mergers to be set down within 10 business days of filing.



Orders issued

The percentage of orders to be issued within 10 business days of the last hearing date



Reasons issued

The percentage of reasons to be issued within 10 business days of the order being issued

Intermediate and small merger targets



Merger set down

The percentage of mergers to be set down within 10 business days of filing of the request for consideration.



Orders issued

The percentage of orders to be issued within 10 business days of last hearing date.



Reasons issued

The percentage of reasons to be issued within 20 business days of order being issued.

Prohibited practice case targets

100
days

Simple matter

The number of days reasons must be issued after the last hearing date

120
days

Complex matter

The number of days reasons must be issued after the last hearing date

150
days

Very complex matter

The number of days reasons must be issued after the last hearing date

Procedural matters, consent orders, settlement agreements and consent orders



Procedural matters

The percentage of orders to be issued within 20 business days of the last hearing date



Consent order/settlement agreement

The percentage of orders to be issued within 10 business days of the last hearing date



Interim relief

The percentage of reasons to be issued within 20 business days of the last hearing date

Adjudicative Process

- Efficiency requires accurate and timely information
- We use the electronic case management system (CMS) to do this

Adjudicative Process

- CMS allows the Tribunal to:
 - ❖ *Electronically manage all processes related to the case function*
 - ❖ *Store case documents so as to facilitate retrieval and safe storage*
 - ❖ *Provide required performance information for reporting purposes*

Excerpt of performance information from CMS



Effective Stakeholder Relationships

- **Objective two – build and develop effective stakeholder relationships**
 - ❖ Communicating with stakeholders
 - ❖ Our public – press releases, website
 - ❖ Our stakeholders – EDD, Parliament, legal community and staff

Targets pertaining to communication



Merger decisions

The percentage of final merger decisions to be issued to the press within 2 business days of the order date



Prohibited practice decisions

The percentage of final prohibited practice decisions to be issued to the press within 2 business days of the order date



Reasons published

The percentage of non-confidential version of reasons posted on the website within 2 business days of issue date of ncv

Revamping the website



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Sun International/Maxshell merger
removed from the roll

Revamping Website

- Post all press releases
- Add link to all African Competition Tribunal sites
- A quick view link box taking readers directly to pages most regularly searched

Revamped Tribune

Trials And The Tribunal

An online resource where you will find everything you need to know about the Competition Tribunal

 **March 31 2016**
Criminalisation of cartels
Brazilian author Marcelo Callari says data shows criminal prosecution to be an effective tool in cartel enforcement.

 **March 20 2016**
The Tribunal's first case about under-pricing
How Media 24 caused a rival newspaper to exit the market.

 **March 4 2016**
World Bank praises SA competition authorities
Study finds that decisions addressed key factors plaguing developing countries.

 **February 22 2016**
Taking it to the wire
Legal challenges to the Competition Commission's corporate leniency policy in the Allens Mescho case.


 **February 15 2016**
The paper trail
Cases that caught the attention of the media.

 **January 31 2016**
Interesting Tribunal facts and figures
Information about mergers and prohibited practices; which sector saw the most cases; and what the cases cost the Tribunal.

Revamping the Tribune

- A quarterly online magazine, or iMagazine, to replace the Tribunal Tribune.
- To be published on the website
- Provide greater insight into what the Tribunal has achieved in the previous quarter – for e.g. analysis of key cases, interesting data etc.

Guideline for the media



How to make the
Competition Tribunal work for you

Mergers & Acquisitions

Stakeholder Awareness **Anti-competitive Conduct**

Prohibited Practices

It's a powerful tool ...
Do you know how to use it?

Guideline for the Media

- Quick and easy reference for media on terminology and the Competition Act
- Contain short definitions of commonly used terms such as: horizontal agreements;
- Briefly look at the Competition Authority structure and the differences between the roles of the 3 institutions
- Explain what media can request from the Tribunal

Tsele Tsele – in-house communication

Movers and Shakers

Getting to know your interns

Kameel grew up in Sandton went to Redhill from Grade 2 to matric. He then moved to Pretoria to go to the University here in 2008 and graduated with a BSc majoring in human physiology and pharmacology in 2011, and then went on to study the LLB which he completed in 2015. He is now busy with the LLM in Intellectual Property. An admission about his ongoing study: "I am fulfilling my life-long goal of being a perpetual student in the process."

With regards to the Tribunal: "The most distinguishing thing about the Tribunal and its staff from my point of view, is the willingness of every single person in the Tribunal to help me learn and point me in the right direction. It is very unique that everyone I talk to in the Tribunal has advice or information or will tell me to read up on this or that in an effort to help me learn and master different aspects of Competition Law. I think that this is a great characteristic of the Tribunal and one that I hope it never loses."

Busiswe is a final year of LLB student who put herself through school. Growing up in Soweto it was always been a dream of hers to work in Competition Law. An article about panel member Mondo Maswal in Destiny Magazine is what sparked her interest and encouraged her to pursue this area of law. With regards to the Tribunal: "Distinguishing moment for me is always working, or rather interacting with the panel members ("important people"). Half of the time I'm star struck (I still can't believe they know my name). Where I come from I never thought it would be possible to even work for an institution like the Tribunal. The humility of everyone in this office is admirable."

Cause for... Celebration...

Maggie Mkhonto, the heart and soul of the office, has moved from Registry to join the CSD, while Thabo Sengwayo, our registry clerk and design advisor, has been given a year contract with the Tribunal

...And demonstration

About 30 independent drivers for Coca-Cola staged a protest outside the DTI Campus on two occasions during pre-hearings over the merger with SAB-Miller. That is presently to come before the Tribunal. It is a rare and exciting experience, as most demonstrations at the campus are leveled at the Department of Trade and Industry



Accountable Entity

Objective three – accountable transparent and sustainable entity

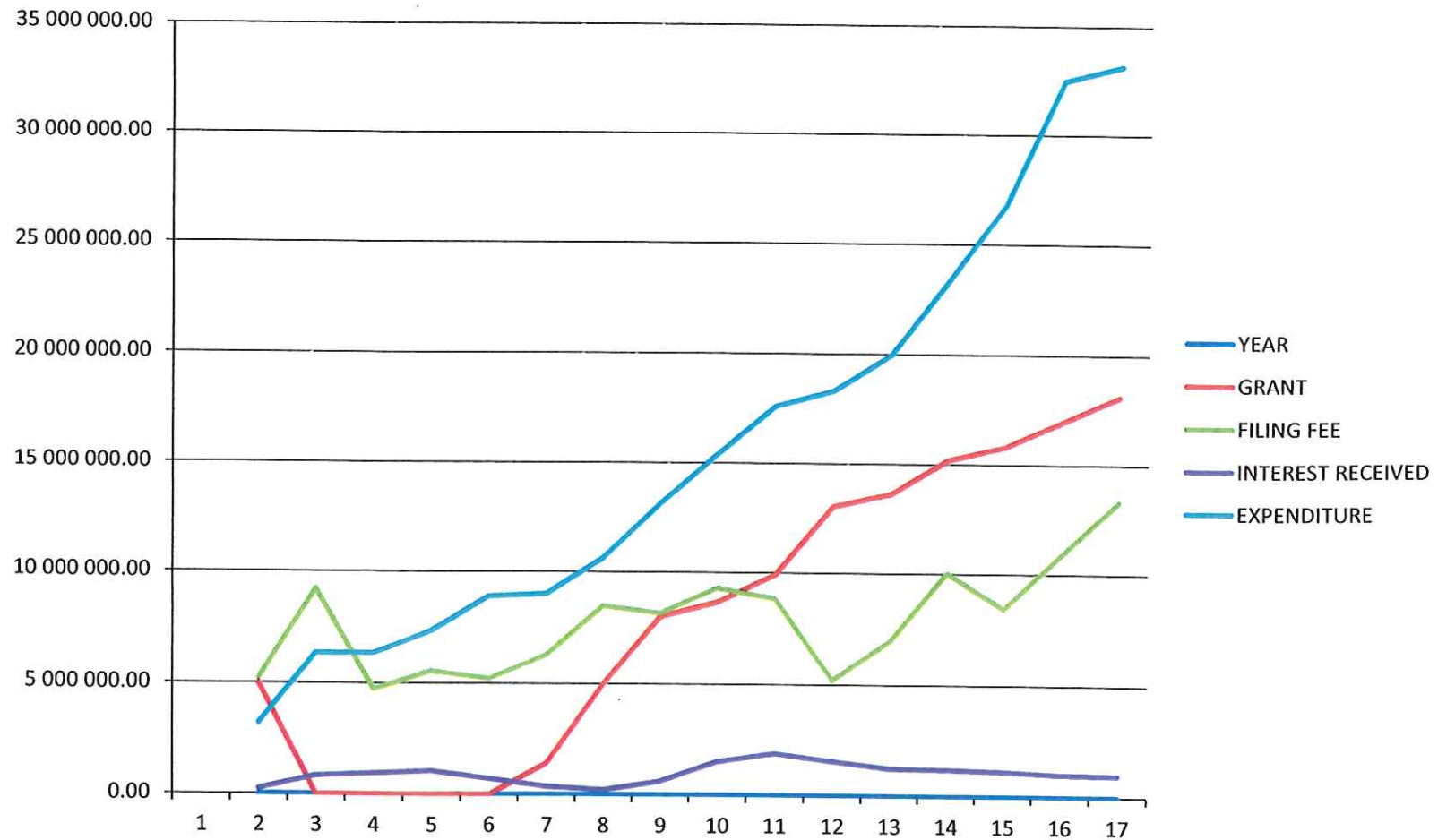
- Unqualified audit outcome year on year
- Meet compliance requirements as an accountable and transparent institution
- Continued implementation of case management internship

Financial Overview

Year	Total budget requirement	Expected MTEF allocation	Expected filing fees from Commission	Other Income	Use of accumulated surplus	Additional funding requirements
	(in R' m)	(in R' m)	(in R' m)	(in R' m)	(in R' m)	(in R' m)
2015/2016	38.15	19.10	10.67	2.03	6.35	0
2016/2017	42.77	21.06	11.53	0.78	9.40	0
2017/2018	46.40	30.04	12.45	0.60	3.31	0
2018/2019	49.38	35.09	13.69	0.60	0	0
2019/2010	52.90		15.06	0.00	0	37.84

Financial Overview

Funding Analysis 1999 - 2016



CATEGORY	OBJECTIVE	AMOUNT
Timeous hearings and issuing of judgements	Adjudication process	R 20 855 341
Effective business processes	Adjudication process	R 2 485 600
Stakeholder awareness	Effective Stakeholder Communication	R 934 994
Effective oversight and governance	Accountable, transparent and sustainable entity	R 3 330 258
Effective financial management	Accountable, transparent and sustainable entity	R 1 491 435
Sustainable capacity	Accountable, transparent and sustainable entity	R 2 130 897
Administration (incl. depreciation)		R 9 544 331
Administering the Competition Appeal Court		R 642 491
Capital expenditure		R 1 327 062
TOTAL BUDGET		R 42 772 409

Challenges

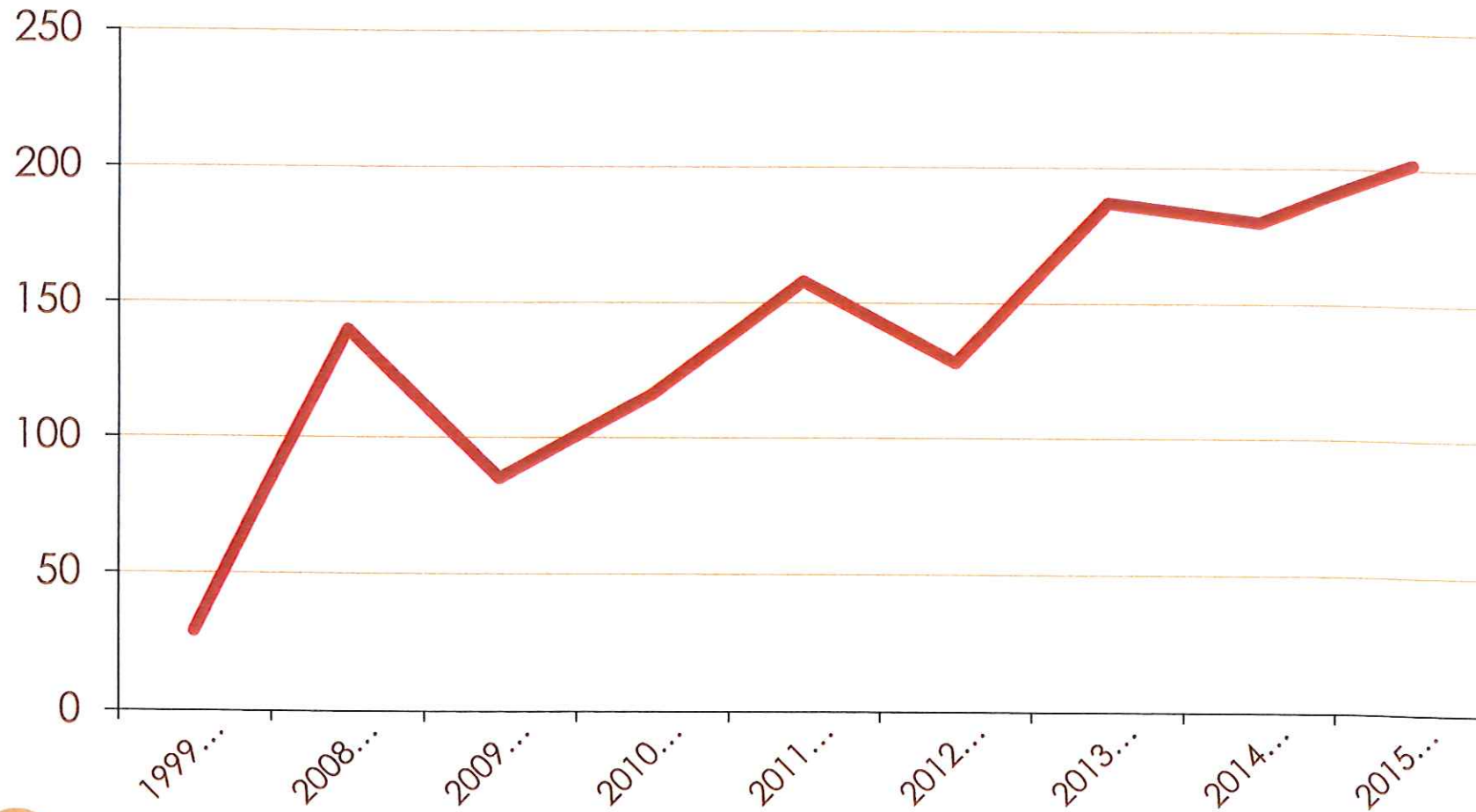
Capacity Constrained

Challenges

- No Deputy Chairperson appointed
- 2 vacant Part-time Tribunal member positions
- Need for senior economist

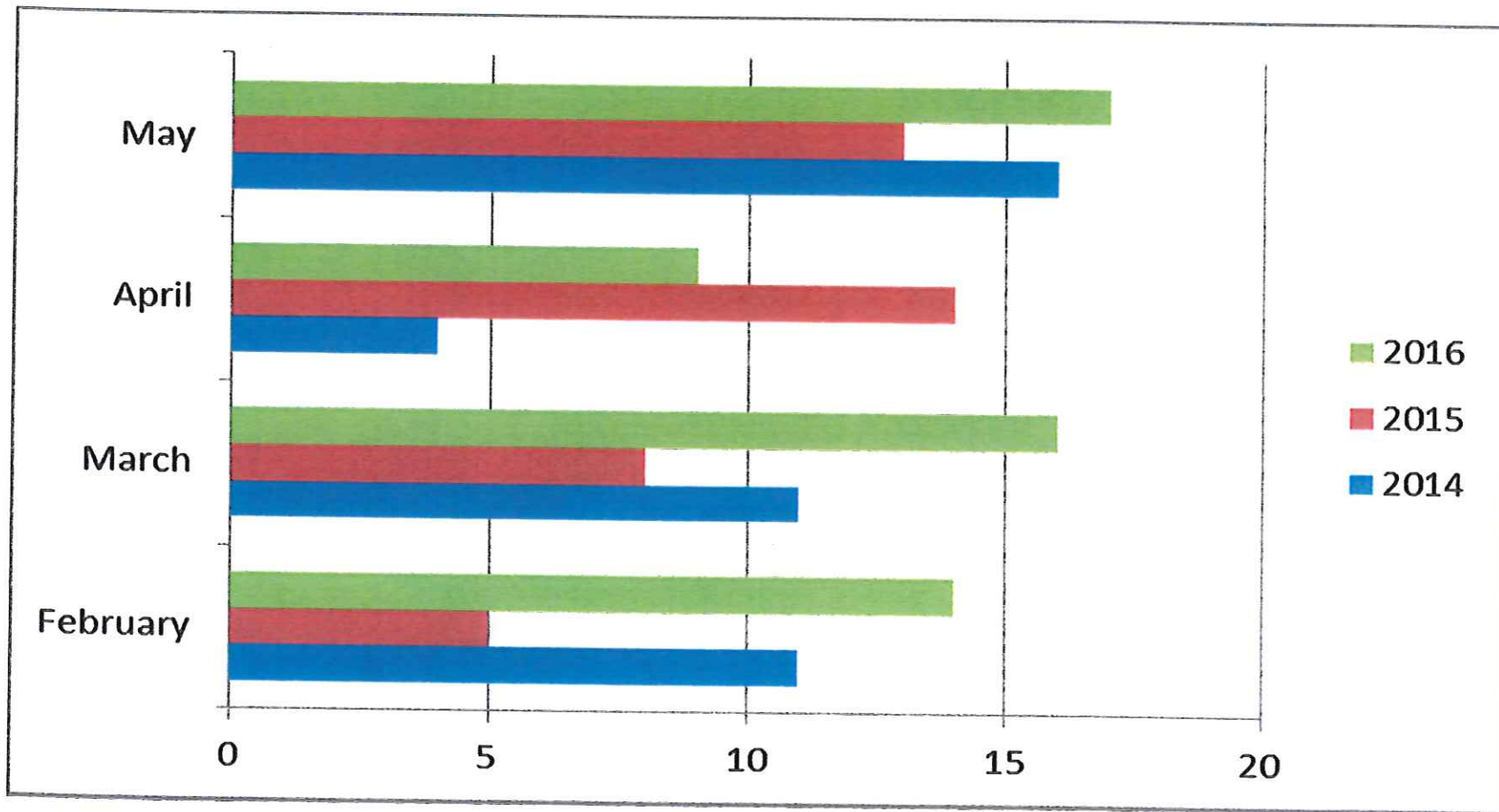
Challenges

Fluctuation of matters over time



Challenges

Number of panels allocated per month



Challenges

Full calendar for May 2016

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
	2 Public Holiday	3	4	5	6
M A Y	7 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	10 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	11 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	12 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	13 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS - SUN INTERNATIONAL (SA) AND MAXIMALL 144 INVESTMENT (PH). (NM; YC; IV)
	16 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	17 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	18 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	19 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	20 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)
	23 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	24 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	25 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	26 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)	27 COCA-COLA BEVERAGES AFRICA AND COCA-COLA CANNERS (NM; YC; IV)
	30	31 CC AND DAHN CONSOLIDATED AND THREE OTHERS	1 - CC/HENDRIK PISTARIUS & 8 OTHERS - HENDRIK PISTARIUS & CC & FIVE OTHERS - KALKON & CC		

Challenges

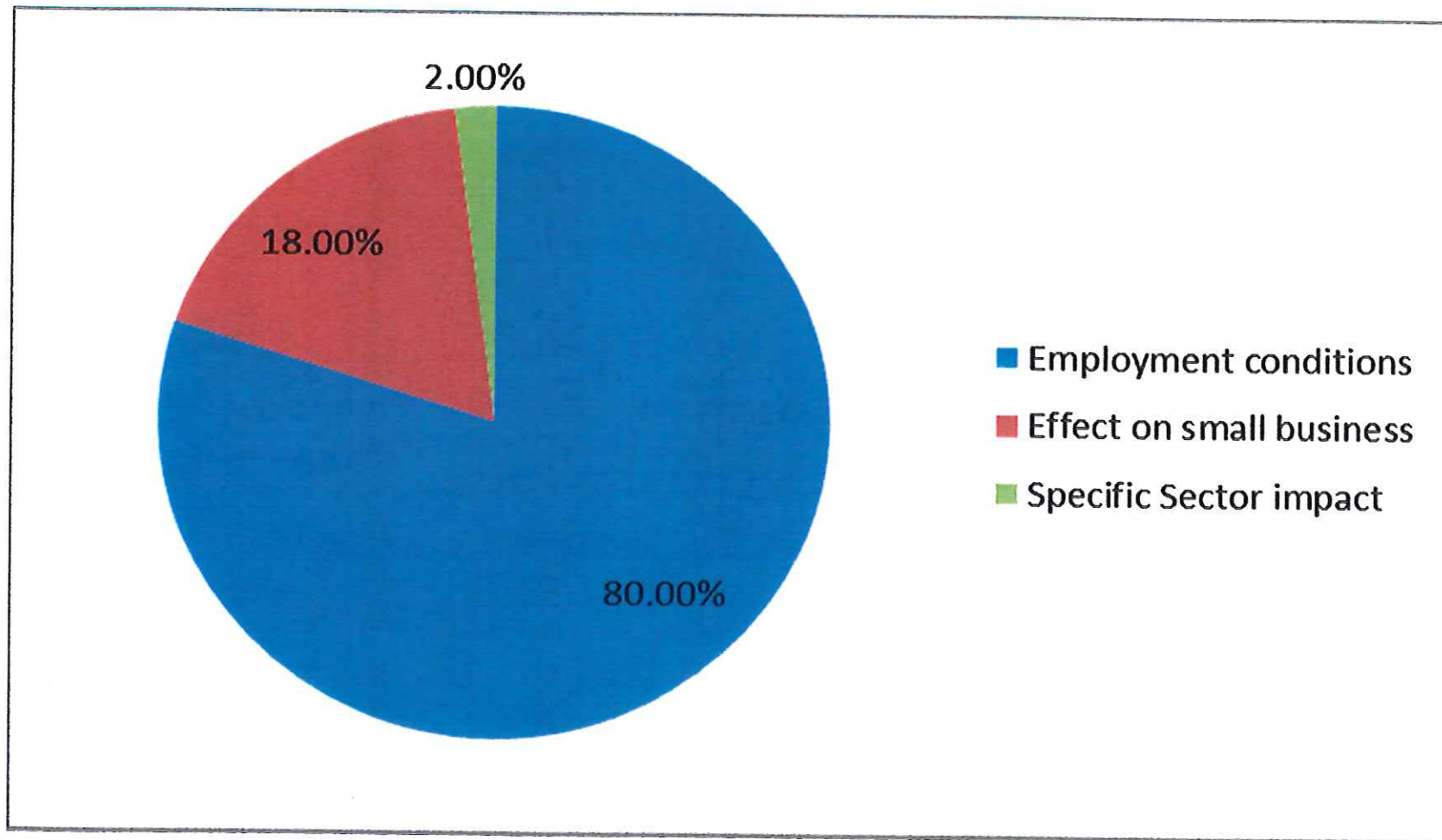
- Budget provides for appointment of senior economist from 1st March 2017
- Refer to page 20 of the APP – the Executive Authority is addressing the shortage of Tribunal members

Output

Since inception (1999) to date Tribunal has imposed public interest conditions in 43 large mergers which have included:

- ❖ Employment conditions
- ❖ Advancement of small businesses
- ❖ Sector specific conditions

Public Interest



Thank You

Questions and Answers