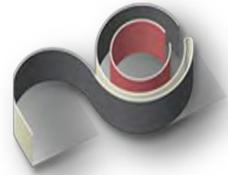




the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA



NATIONAL CONSUMER COMMISSION

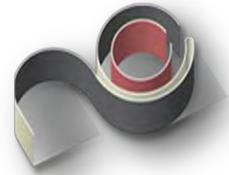
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BRIEFING TO THE PARLIAMENTARY PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY

NATIONAL CONSUMER COMMISSION ANNUAL REPORT 2016-17

03 OCTOBER 2017

**Mr EBRAHIM MOHAMED
COMMISSIONER**



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OUTLINE OF PRESENTATION

- Key Highlights
- Strategic objectives
- Achievements against planned targets
- Financial management
- AGSA Report
- Key challenges and financial projection

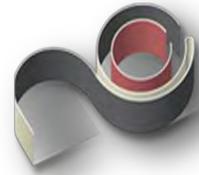


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KEY HIGHLIGHTS FY 2016/17

KEY HIGHLIGHTS



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- NCC fully met 17 out of its 19 targets. On the targets that were not fully met, the NCC met approximately 90% of these two targets (franchise code and opt out register procurement)
- This reflects an improvement on the previous year's performance, where only 11 out of 18 targets were fully met.
- “Timeshare” industry- enquiry
- Expiry of unused data
- Chair of the Consumer Policy and Law Committee of SADC region
- Chairs the Consumer Protection Forum- SA
- Operation of ombud schemes
- Product Recalls facilitated on a range of goods that are either unsafe and or defective including foodstuffs, vehicles and medical equipment
- Recommended accreditation of advertising industry and franchise industry codes

KEY HIGHLIGHTS



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- Thirty three (33) investigations conducted
- 36 Inspections conducted
- Three applications made to the National Consumer Tribunal to declare certain investigated conduct as prohibited conduct. One resulted in a fine being imposed.
- Opt Out Register project: Finalised appointment of Transactional adviser; Finalised feasibility study- options to be studied by Treasury
- External Newsletter project well under way. 3 newsletters approved for publication.
- Centurion office premises lease expired on 30 September 2016. Since 26 September 2016, the NCC has relocated to the SABS Campus- Pretoria.
- The problems associated with the old lease and security of tenure is₅ now fully resolved.

KEY HIGHLIGHTS



NCC has been regularly featured on TV, Radio and print media





KEY HIGHLIGHTS- STATISTICS

Consumer Goods and Services Ombud (CGSO) & Motor Industry Ombud (MIOSA)

- The ombuds are accredited by Minister in terms of the CPA and their function is to resolve disputes between consumers and suppliers.
- Disputes are resolved through mediation or conciliation and its key objective is to provide an accessible, free and speedy service.
- The NCC retains the regulatory role of monitoring consumer disputes per industry and sector dealt with by these ombuds.

Consumer Goods and Services Ombud (CGSO)

CGSO received a total of 5999 complaints.

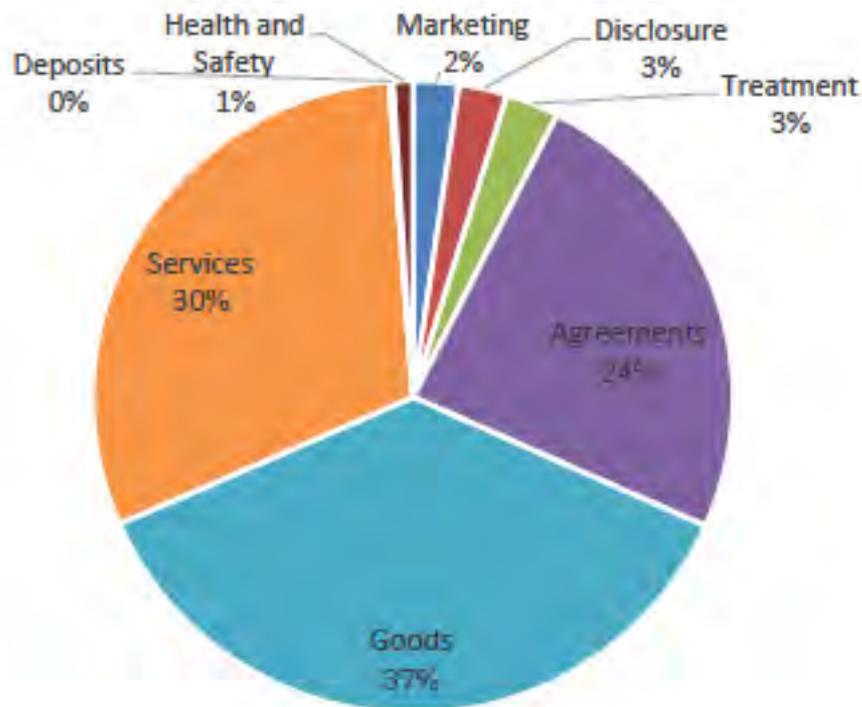
The complaints referred by the NCC amount to 40% of the CGSO's workload.

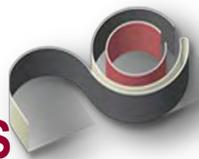


KEY HIGHLIGHTS- CGSO STATISTICS

Top Three Complaint types	
Cell phones	1518
Services	1402
Electrical appliances	622

Overall nature of Complaints





KEY HIGHLIGHTS- CGSO STATISTICS

Resolved – complaint upheld fully	2247
Referred – outside jurisdiction	1308
Dismissed –no cooperation from supplier	858
Resolved matter not upheld	708
Dismissed –no cooperation from complainant	320
Resolved assistance provided	287
Resolved –complaint upheld partially	254
Resolved mediation held	24
Complainant withdrawn complaint	171
Matter not yet referred to supplier	4

- CGSO closed 6181 cases. Includes 2473 NCC files.
- Average age to close a file was reported as 58 days.
- Except for 708 matters, the vast majority of the matters were dealt with in favour of consumers.



KEY HIGHLIGHTS- MIOSA STATISTICS

CASES	2015	2016	2017
New cases	1690	1684	2077
Current open	934	1479	1391
Closed cases	756	955	2041



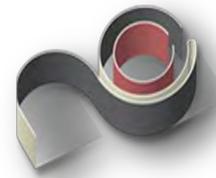
KEY HIGHLIGHTS- MIOSA STATISTICS

Top 10 problem areas

	Problem Group	2015	2016	2017
1	ENGINE	421	272	652
2	POOR SERVICE	941	1318	487
3	LEGAL	68	52	190
4	AGREEMENT	114	110	166
5	GEARBOX	149	101	112
6	WHEELS	153	73	105
7	BODY	136	41	104
8	INTERIOR	86	49	58
9	ELECTRICAL	94	18	51
10	SERVICE	106	51	45



Regulatory Context



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Regulatory Context

- **the dti** is the custodian of Consumer Protection policy;
- NCC is established in terms of Section 85 of the Consumer Protection Act (CPA) and has jurisdiction throughout the Republic of South Africa.
- The core responsibility is to enforce and carry out the functions assigned to it in terms of the CPA.
- The CPA seeks to promote a fair, accessible and sustainable marketplace for consumer products and services and for that purpose to establish national norms and standards relating to consumer protection.



Regulatory Context

- It further seeks to provide for improved standards of consumer information, to prohibit certain unfair marketing and business practices, to promote responsible consumer behaviour and to promote a consistent legislative and enforcement framework relating to consumer transactions and agreements;
- NCC has concurrent jurisdiction on Consumer Protection in RSA- jurisdiction is shared with Provincial Consumer Protection Authorities.
- The NCC oversees functioning of alternate dispute resolution agents accredited by Minister in terms of section 82 of CPA.



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Strategic Objectives

STRATEGIC OBJECTIVES



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The **key strategic outcomes** for the year under review were:

1. To promote compliance with the Consumer Protection Act and
2. To conduct research and promote advocacy and consumer empowerment.

- **Three main programmes**

- 1. To promote Consumer Safety and Protection**

The goal is to ensure consumer protection and consumer safety through the enforcement of the provisions of the Consumer Protection Act and to facilitate an environment that enables resolution of disputes between consumers and suppliers that is expedient, cost effective, fair and transparent.

- The **functions** are to:

- (i) Facilitate an environment that enables resolution of disputes between consumers and suppliers that is expedient, cost effective, fair and transparent.
- (ii) Conduct inspections and investigations so as to enforce the provisions of the CPA.
- (iii) Make applications to the National Consumer Tribunal for declaration of various conduct as prohibited conduct;
- (iv) Facilitate, conduct and monitor product recalls;
- (v) Establish or recognize as authoritative, a registry in which any person may register a pre-emptive block against any communication that is primarily for the purpose of direct marketing

STRATEGIC OBJECTIVES



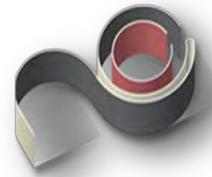
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2. To promote reform of consumer policy and consumer protection legislation

- The **goal** is to reform consumer legislation in order to achieve the progressive transformation and improvement of practices that are inconsistent with the CPA
- The **functions** are to:
 - i) Advise Minister on matters relating to consumer protection and on the determination of national norms and standards regarding consumer protection in terms of the CPA that should apply generally throughout the Republic;
 - ii) Identify legislation that affects the welfare of consumers which is inconsistent with the purposes of the CPA. Develop proposals and recommendations to Minister for reform of practices that are inconsistent with the CPA.
 - iii) Provide guidance to the public by issuing explanatory notes and/or non-binding opinions on the interpretation of provisions of the CPA;
 - iv) Apply for a declaratory orders on the interpretation or application of any provision of the CPA;

STRATEGIC OBJECTIVES



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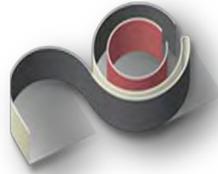
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3. To conduct research and to develop public awareness on consumer protection matters

- The **goal** is to increase knowledge on the nature and dynamics of the consumer market and promote public awareness on consumer protection matters by implementing education and information measures to develop public awareness of the provisions of the CPA
- The **functions** in relation to this objective are performed by the Research and Advocacy, Education and Awareness Divisions.
- The purpose is to:
 - (i)Conduct targeted consumer workshops as well as business focused workshops and presentations aimed at facilitating a better understanding of the Act;
 - (ii)Analyse complaints and market conduct and develop trends analysis reports which would serve to assist the NCC in determining its intervention strategies.
 - (iii)Conduct research and propose policy changes to the Minister in relation to any matter affecting the supply of goods and services, that would improve the realization and full enjoyment of consumer rights;

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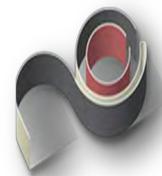


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Achievement against Targets

Achievement against Targets



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Performance indicator & target	Achievement	Reasons for variance
1. 80% of ICT strategy implemented.	<p>Achieved 80% of ICT strategy implemented. An ICT governance framework and new ICT strategy was approved in August 2016. 16 new ICT policies were approved by 31 July 2016.</p>	
2. 90% complaints referred or issued with non-referrals on an average of 40 days.	<p>Achieved 99% % of complaints were referred or issued with non-referrals on an average of seventeen (17) days of receipt. (7259 out of 7297)</p>	<p>A decreased number of officials were used to refer matters and as a result efficiencies were improved</p>
3. Receive and assess reports from accredited ombuds in line with published codes of conduct or as agreed with the Ombud. Compile quarterly assessment report and submit to Executive Authority	<p>Achieved Received and assessed quarterly reports from accredited ombuds in line with published codes of conduct or as agreed with the Ombud. Compiled quarterly assessment reports and submitted to Executive Authority as part of quarterly reports.</p>	

Achievement against Targets



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Performance indicator & target	Achievement	Reasons for variance
<p>4. Submit Industry Code to Minister for accreditation within 6 months of receipt of compliant code.</p>	<p>Achieved Submitted Two (2) compliant industry codes to Minister for accreditation. Codes which were received from: i) the Franchise Association of South Africa; and ii) the Advertising Standards Authority. The advertising code was submitted within 6 months of receipt whilst the franchise code was submitted later.</p>	<p>The Franchise Association code was submitted after the six months deadline had lapsed. The delay was due to the Franchise Association submitting their response late.</p>
<p>5. One code of good practice on Alternative Dispute Resolution norms and standards developed in terms of section 93 (1) (d) of the CPA.</p>	<p>Achieved Code of good practice on Alternative Dispute Resolution norms and standards developed in terms of section 93 (1) (d) of the CPA.</p>	
<p>6. 12 investigations conducted, reports with recommendations produced and approved by Commissioner.</p>	<p>Achieved Thirty three (33) investigations conducted. Reports with recommendations produced and approved by Commissioner</p>	<p>Increased number of complaints not resolved at ADR that needed to be investigated to determine the best course of action.</p>

Achievement against Targets



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Performance indicator & target	Achievement	Reasons for variance
7. 22 inspections conducted, reports with recommendations produced and approved by Commissioner.	<p>Achieved 36 Inspections conducted, reports with recommendations produced and approved by Commissioner.</p>	<p>The Ministerial campaign on Paraffin Stoves as well as the NCC Price Display campaign resulted in the increase in the number of municipalities planned for inspections.</p>
8. Two applications made to the National Consumer Tribunal to declare certain investigated conduct as prohibited conduct.	<p>Achieved Three applications made to the National Consumer Tribunal to declare certain investigated conduct as prohibited conduct. One of which was a consent order that resulted in a fine being imposed on the Respondent.</p>	<p>The third application followed the successful negotiation of a consent order in time for an application to the effect that it be made an order of the Tribunal in the year under review.</p>
9. Produce a report on the administration and monitoring of the product recalls in line with published Product Recall guidelines or as agreed with the supplier.	<p>Achieved Produced 4 product recall reports on the administration and monitoring of the product recalls in line with published Product Recall guidelines or as agreed with the supplier.</p>	

Achievement against Targets



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Performance indicator & target	Achievement	Reasons for variance
10. Finalise appointment of Transactional adviser. Finalise feasibility study; Commence with procurement of register.	<p>Not achieved Finalised appointment of Transactional adviser. Finalised feasibility study; Procurement of register. Procurement of register has not commenced.</p>	Procurement of register has not commenced due to delay in procurement as the tender for the Transactional Adviser had to be re-advertised after no bids were received in the first instance.
11. Survey Consumer Protection Awareness amongst consumers residing in tribal/ traditional areas.	<p>Achieved Survey of Consumer Protection Awareness amongst consumers residing in tribal/ traditional areas conducted, report produced and approved by the Commissioner.</p>	
12. Identify one Act that affects the welfare of consumers which is inconsistent with the purposes of the CPA and develop proposals for reform of practices, Report submitted to Minister.	<p>Achieved Acts/ Practices that affects the welfare of consumers identified which are inconsistent with the purposes of the CPA and proposals developed for reform of practices. Report submitted to Minister.</p>	

Achievement against Targets



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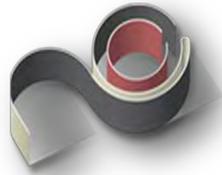
Performance indicator & target	Achievement	Reasons for variance
13. 80 % of registered requests for explanatory notes and /or non-binding opinions provided within an average of 20 days.	<p>Achieved 100 % of registered requests for explanatory notes and /or non-binding opinions provided well within an average of 20 days.</p>	The vast majority of requests for explanatory notes and /or non-binding opinions received were not complex.
14. Make one application for a declaratory order on the interpretation or application of a provision of the CPA.	<p>Achieved Made two applications for declaratory orders: I) on the interpretation or application of a provision of the CPA relating to pyramid scheme operated by MMM. Pleadings exchanged and finalised. Matter set down for hearing on the 26th of May 2017. II) On the use of section 138 forms for section 74 applications in the National Consumer Tribunal in terms of the National Credit Act.</p>	
15. 24 consumer awareness workshops conducted.	<p>Not Achieved 10 Consumer awareness workshops were conducted.</p>	Altogether 27 workshops were conducted, however, less than 50 persons attended 17 out of the 27 workshops. These 17 workshops are deemed unsuccessful workshops.

Achievement against Targets



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Performance indicator & target	Achievement	Reasons for variance
16. 12 business compliance workshops conducted.	Achieved 15 Business compliance workshops were conducted.	Increased interest from stakeholders has necessitated acceptance of more invitations for workshops.
17. 3 External Newsletters developed and approved by Commissioner for publication.	Achieved 3 External Newsletters were developed and approved by Commissioner for publication.	
18. 100% of registered complaints analysed, trends established and annual report produced.	Achieved 100% of registered complaints analysed, trends established and annual report produced and approved by the Commissioner.	
19. Compilation of an Affordability Index to measure the level of affordability of particular goods and services in the Republic.	Achieved Affordability Index to measure the level of affordability of particular goods and services in the Republic compiled and approved by the Commissioner.	



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FINANCIAL MANAGEMENT

Statement of Financial Position



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STATEMENT OF FINANCIAL POSITION		
as at 31 March 2017		
	2017	2016 - Restated
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	10,882,748	10,304,500
Trade and other receivables from exchange transactions	11,026	18,257
Trade and other receivables from non-exchange transactions	130,816	258,663
Prepayments	281,285	449,694
CURRENT ASSETS	11,305,875	11,031,114
NON-CURRENT ASSETS		
Property Plant and Equipment	2,267,327	2,493,510
Intangible Assets	255,872	318,916
NON-CURRENT ASSETS	2,523,199	2,812,426
TOTAL ASSETS	<u>13,829,074</u>	<u>13,843,540</u>
LIABILITIES		
CURRENT LIABILITIES		
Trade and other payables from exchange transactions	3,303,546	2,801,431
Provisions	2,329,817	1,701,797
Operating lease liability	-	168,066
TOTAL LIABILITIES	<u>5,633,363</u>	<u>4,671,294</u>
ACCUMULATED SURPLUS (Net surplus)	8,195,711	9,172,246



Statement of Financial Performance

STATEMENT OF FINANCIAL PERFORMANCE		
as at 31 March 2017		
	2017	2016- Restated
	R	R
REVENUE		
Government grants	56,643,000	54,596,000
Interest received on investment	1,638,697	1,507,285
Services in kind	3 888 758	-
TOTAL REVENUE	62,170,455	56,103,285
EXPENDITURE		
Employee related costs	(40,722,626)	(36,468,032)
General expenses	(21,175,158)	(18,893,526)
Repairs and maintenance	(179,477)	(99,216)
Debt impairment	-	(21,446)
Depreciation and amortisation	(827,814)	(1,486,745)
TOTAL EXPENDITURE	(62,905,075)	(56,968,965)
Loss on disposal of assets	(241,916)	(181,176)
SURPLUS FOR THE YEAR	(976,536)	(1,046,856)

Comparison of Budget with Actual amounts



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STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

as at 31 March 2017

	Approved budget	Adjustments	Final budget	Actual amounts on comparable basis	Difference between final budget and actual
REVENUE					
Revenue from non-exchange transactions	58,013,000	(1,370,000)	56,643,000	56,643,000	-
Revenue from exchange transactions (investment)	1,606,000		1,606,000	1,638,697	32,697
Services in kind	-	-	-	3,888,758	3,888,758
TOTAL REVENUE	59,619,000	(1,370,000)	58,249,000	62,170,455	3,921,455
EXPENDITURE					
Personnel	(40,381,000)	-	(40,381,000)	(40,722,626)	(341,626)
Depreciation and amortization	(1,848,000)	587,000	(1,261,000)	(827,814)	433,186
Repairs and maintenance	(99,000)	(97,000)	(196,000)	(179,477)	16,523
General expenses	(17,291,000)	880,000	(16,411,000)	(21,175,158)	(4,764,158)
TOTAL EXPENDITURE	(59,619,000)	1,370,000	58,249,000	62,905,075	4,656,075
Operating deficit	-	-	-	(734,620)	(734,620)
Loss on disposal of assets	-	-	-	(241,916)	241,916
Deficit for the year				(976,536)	(976,536)

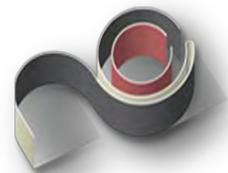
Reasons for variances in spending



Summary:

- The adjustment in the final budget was a result of the baseline reduction during the adjustment of estimates of national expenditure process. The reduction was to give effect to the accommodation arrangement between the NCC and the SABS.
- The interest received exceeded budget as a result of the early transfers of excess funds to the investment account, where funds are only withdrawn closer to the payment periods.
- Services in kind relate to the market value of accommodation and related services, which are supplied at no charge by the SABS to the NCC.
- Personnel costs were slightly overspent as a result of the annual cost of living adjustment.
- General expenses exceeded the budget by 3%. The NCC participated in several joint campaigns with other dti entities, and incurred additional costs relating to travel and subsistence, and venues and facilities. Additional costs towards two research projects, transactional advisor services, and office relocation were also incurred.

Linking performance with budgets

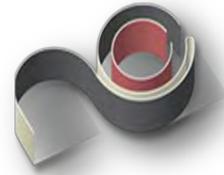


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Name of programme	Item	Final Appropriation (R)	Actual Expenditure (R)	Under Expenditure (R)
Objective 1: Administration	Compensation of employees	16 234 000	16 452 643	(218 643)
	Goods and services	10 712 000	16 608 135	(5 896 135)
	Depreciation	1 261 000	827 814	433 186
Total		28 207 000	33 888 592	(5 681 592)
Objective 2: Promote compliance to CPA	Compensation of employees	17 895 000	17 775 933	119 067
	Goods and services	3 447 000	1 785 736	1 661 264
Total		21 342 000	19 561 669	1 780 331
Objective 3: Be a well governed and capacitated organization	Compensation of employees	6 252 000	6 494 050	(242 050)
	Goods and services	1 048 000	1 506 198	(458 198)
Total		7 300 000	8 000 248	(700 248)

Linking performance with budgets



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Name of programme	Item	Final Appropriation (R)	Actual Expenditure (R)	Under Expenditure (R)
Objective 4: Conduct research and develop public awareness on consumer protection matters	Compensation of employees	-	-	-
	Goods and services	1 400 000	1 454 566	(54 566)
Total		1 400 000	1 454 566	(54 566)

Irregular expenditure



Summary:

- 76% of the irregular expenditure of R5,4 million related to irregular expenditure incurred in **the prior financial years** and 24% amounting R1,7 million related to irregular expenditure incurred in the **current year**.
- Current year irregular expenditure
 - Not impractical to obtain three quotes - 10% (R174,918)
 - Applicable minimum values – TOR - 87% (R1,477,545)
 - Tax clearance verification - 3% (R38,300)



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AGSA REPORT

AGSA's Report



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Report on the audit of the annual performance report

Programme 1: Administration- To improve on the governance, compliance and resource requirements of the entity.

Report on the audit of the financial statements

- Material misstatements were identified by the auditors in the financial statements during the audit. These misstatements were corrected, resulting in an unqualified audit opinion on financial statements.

Report on audit of compliance with legislation

- The financial statements submitted for auditing were not prepared in accordance with the prescribed reporting framework, as required by **section 55(1)(b) of the PFMA** and several sections of the **GRAP** standards were not applied.
- Contracts and quotations were awarded to bidders based on preference points that were not allocated in accordance with the requirements of the **PPPFA** and or functionality criteria that were not stipulated in the original invitation for quotations, in contravention of **Preferential Procurement Regulation 4**.

AGSA's Report



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Report on the audit of the annual performance report

Programme 1: Administration- To improve on the governance, compliance and resource requirements of the entity.

Report on the audit of the financial statements

- The NCC received an unqualified opinion on its financial statements. Certain material misstatements were found which were corrected.

Report on audit of compliance with legislation

- The financial statements submitted for auditing were not prepared in accordance with the prescribed reporting framework, as required by **section 55(1)(b) of the PFMA** and several sections of the **GRAP** standards were not applied.
- Contracts and quotations were awarded to bidders based on preference points that were not allocated in accordance with the requirements of the **PPPFA** and or functionality criteria that were not stipulated in the original invitation for quotations, in contravention of **Preferential Procurement Regulation 4**.

AGSA's Report



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- ***Qualified Audit Opinion on certain programmes- on usefulness and reliability***
- **Target- Advisory Opinions**
 - Limitation of scope- the NCC provided advisory opinions on every request received in time- proof thereof was submitted- however, not all matters were placed on the register.
- **Target- Complaints analysed, Trends established and reports produced**
 - Insufficient audit evidence was provided- resulting in a misstatement-
Consequence management- has been actioned.
- Since these two targets are part of two different programmes- the AGSA qualified the both programmes 3 and 4.

Clean Audit strategy

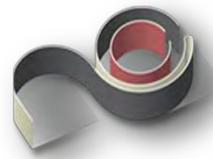
- **Performance Information :**
 - Monthly, quarterly and annual reporting on the APP are reviewed to ensure validity of output reported and proper record keeping of evidence in all activities.
- **Misstatement on Financial Statements:**
 - To audit interim financial statements in order to avoid material misstatements
 - Review of annual financial statements by an independent party to eliminate material errors.
- **Compliance Issues:**
 - To embrace compliance legislation by ensuring that SCM committees are properly established and functional, while ensuring that financial statements are compiled in accordance to PFMA and GRAP requirements.
- **Overall:**
 - Ensure management commitment in improving the internal control environment by administering consequence management.
 - Strengthen monitoring on implementation of all AG recommendations to achieve 100% and impalement a comprehensive follow-up of all AG findings to avoid repeat findings.
 - To improve governance and accountability by improving systems, processes and practices .



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KEY CHALLENGES

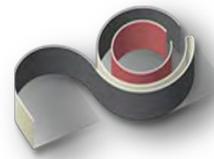


Key Challenges

Delivery on APP

- The slight underperformance that has been reported under paragraph 2.2 under the heading PERFORMANCE AGAINST THE ANNUAL PERFORMANCE PLAN is not as a result of any key challenges faced by the NCC. To the contrary, the underperformance areas were beyond its control.
- Industry code for the franchise industry took longer than expected before a recommendation could be made to Minister. In this matter, the applicant industry took much longer than anticipated, to respond to queries raised by the NCC.
- With regard to the other deliverable that was not fully achieved, the NCC was only unable to commence with the procurement of the Opt Out Register. The transactional adviser was appointed and the feasibility study was complete. Since no bids were received after advertising the Transactional adviser tender, the process of re-advertising the bid led to delays.
- Lack of adequate resources (financial and human resources)
- Union request for parity on remuneration and Schedule 3A benefits

Delegation Details



NATIONAL CONSUMER COMMISSION

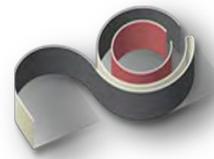
a member of the dti group

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NATIONAL CONSUMER COMMISSION

a member of **the dti** group

Thank You