



# **competition commission**

## **south africa**

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4 August 2006

### Enquiry into Competition in Banking

#### **Composition of the Enquiry and Terms of Reference**

##### **Introduction**

1. The purpose of the Competition Act, set out in section 2, is to promote and maintain competition in the Republic in order —
  - (a) to promote the efficiency, adaptability and development of the economy;
  - (b) to provide consumers with competitive prices and product choices;
  - (c) to promote employment and advance the social and economic welfare of South Africans;
  - (d) to expand opportunities for South African participation in world markets and recognise the role of foreign competition in the Republic;
  - (e) to ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; and
  - (f) to promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.
2. Section 21 of the Competition Act gives the Competition Commission the responsibility and the function, among others, to implement measures to increase market transparency and to enquire into and report to the Minister of Trade and Industry on any matter concerning the purposes of the Act.
3. In 2004 the Task Group for the National Treasury & the South African Reserve Bank recommended that the Competition Commission should investigate the possibility of a complex monopoly in the governance and operation of the national payments system. The Commission is also aware of widespread public concern regarding the level of charges made by banks and other providers of payment services to consumers.
4. Following on the findings in the research report *The National Payment System and Competition in the Banking Sector*, the Commission announced earlier this year that it would hold an enquiry in terms of Section 21 into particular aspects of competition in banking.

**Terms of Reference**

5. The subject matter of the enquiry will be:
  - (a) the level and structure of charges made by banks, as well as by other providers of payment services, including:
    - (i) the relation between the costs of providing retail banking and/or payment services and the charges for such services;
    - (ii) the process by which charges are set; and
    - (iii) the level and scope of existing and potential competition in this regard;
  - (b) the feasibility of improving access by non-banks and would-be banks to the national payment system infrastructure, so that they can compete more effectively in providing payment services to consumers;
  - (c) any other aspect relating to the payment system or the above-mentioned charges which could be regarded as anti-competitive.
  
6. The objects of this enquiry are, in connection with the subject matter stated above:
  - (a) to increase transparency and competition in the relevant markets;
  - (b) to ascertain whether there are grounds upon which the Competition Commissioner should initiate, and the Commission consequently use its powers to investigate, any specific complaints of contraventions of the Competition Act;
  - (c) to engage with the banks, other providers of payment services, the appropriate regulatory authorities and other stakeholders in order to ascertain the extent to which, consistent with the soundness of the banking and payments system, there could realistically be improvements in the conditions affecting competition in the relevant markets, including increased access to the national payments infrastructure;
  - (d) to enable the Commission to report to the Minister and make recommendations on any matter needing legislative or regulatory attention.

**Panel**

7. The enquiry is to be conducted for the Commission by a panel, appointed by the Competition Commissioner, consisting of Mr Thabani Jali (Chairperson), Mr Oupa Bodibe, Mrs Hixonia Nyasulu and Mr Rob Petersen SC.
8. The panel will be assisted by a full-time administrative and technical staff, and by such expert consultants as may be necessary.
9. The panel will shortly issue guidelines and initial questionnaires for the assistance of those wishing or willing to submit relevant information to the enquiry.

**Submissions**

10. The enquiry depends entirely on the voluntary submission of information by all interested parties, and their willingness to have the significance and reliability of that information tested in co-operation with the panel and its supporting staff.
11. The enquiry will be on-the-record and its record will be made available to the public, subject only to restrictions on disclosure provided for in the Competition Act. Information submitted to the enquiry will be regarded as information submitted to the Commission for purposes of the Act.
12. It is envisaged that, in the course of the enquiry, public hearings will be held to supplement and examine submissions made in writing or in interviews.

**Report**

13. The report of the Chairperson (endorsed by other panel members or together with any differing or supplementary reports by other panel members, as the case may be) will be provided to the Commissioner within a year.
14. The panel may make interim recommendations to the Commissioner, including, if necessary, recommendations concerning any alteration in these terms of reference.

**Enquiry secretariat and contact details**

The enquiry manager is Mr Charles Frank.

The personal assistant to Mr Frank is Ms Kamogelo Seleka.

Communications with the enquiry should be directed to Mr Frank, who, in consultation with the Chairperson, will also be responsible for liaison with the media.

**Contact details:**

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A banking enquiry website to facilitate public access to information has been set up, and is in the process of development:

[www.compcom.co.za/banking](http://www.compcom.co.za/banking)