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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

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ECONOMIC DEVELOPMENT DEPARTMENT

NO. 1307

30 NOVEMBER 2018



*competition***commission**  
*south africa*

**AMENDED TERMS OF REFERENCE FOR MARKET  
INQUIRY: Private Healthcare Sector  
23 November 2018**



AMENDED TERMS OF REFERENCE FOR  
MARKET INQUIRY: Private Healthcare  
Sector 23 November 2018

## 1. BACKGROUND

On 29 November 2013, the Commission, acting under Chapter 4A of the Competition Act, 89 of 1998 (as amended) (the Act), published a notice that it would be conducting the Health Market Inquiry (HMI) as well as a Terms of Reference (TOR) for the Inquiry. The Commission decided to undertake such an inquiry on its own initiative because it has reason to believe that there are features of the sector that prevent, distort or restrict competition, and in order to promote competition in furtherance of the purpose of the Act.<sup>a</sup>

The Inquiry has been in operation since 6 January 2014 and was initially set to be completed on 30 November 2015. In October 2015, the Commission amended the Inquiry completion date to 15 December 2016. This was extended to 15 December 2017, in the government gazette published on 9 December 2016<sup>b</sup>. The Inquiry completion date was further amended to 31 August 2018 in a government gazette published on 8 December 2017.<sup>c</sup> The Inquiry completion date was again amended to 30 November 2018.<sup>d</sup>

The Inquiry published its provisional findings and preliminary recommendations on 5 July 2018. Stakeholders had until 7 September 2018 to provide substantiated comments and submissions on the Inquiry provisional report and preliminary recommendations. The Inquiry has also conducted the data room process for those stakeholders who requested for access to underlying data and information, considered in preparing the Provisional Report. The data room process has since been finalised.

The Inquiry received several requests for extensions for submissions from various stakeholders which were considered and granted based on individual motivations. The final date of extension allowed by the Panel for all outstanding submissions was 15 October 2018. The HMI received a total of 65 submissions which will be published in due course once the HMI has completed its engagements with stakeholders who have made confidentiality claims.

<sup>a</sup> Section 43B(1)(i) and section 43B(1)(ii).

<sup>b</sup> Amended Terms of Reference for Market Inquiry: Private Healthcare Sector, Government Gazette no. 40480.

<sup>c</sup> Amended Terms of Reference for Market Inquiry: Private Healthcare Sector, Government Gazette no. 41311.

<sup>d</sup> Amended Terms of Reference for Market Inquiry: Private Healthcare Sector, Government Gazette no.41893.



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## 2. AMENDMENT OF THE TERMS OF REFERENCE

In terms of section 43B(5) of the Act, the Commission may, by way of an amendment to the TOR, amend the scope of the Inquiry, or the time within which the Inquiry is expected to be completed, by further notice in the Gazette.

The scope of the Inquiry remains the same.

Stakeholders will be afforded opportunity to engage with the submissions made in respect to the Provisional Report, once published. Furthermore, necessary engagements between the stakeholders and the Inquiry in respect of the provisional are ongoing. All comments and submissions made on the provisional report, are being considered by the Inquiry, and if necessary, the report will be revised with the view to publishing the final report and recommendations. This necessitates further amendment to the Inquiry completion date.

In terms of the amendment, the final Inquiry report and recommendations, will be completed by **29 March 2019**.

Further details regarding the amendment to the administrative timetable will be made available on the Inquiry website.