



competition commission
south africa

PRESS RELEASE

IMMEDIATE RELEASE

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COMMISSION TO INITIATE A MARKET INQUIRY ON DIGITAL MARKETS

The Competition Commission (“the Commission”) has resolved to conduct a market inquiry into Online Intermediation Platforms (“the Online Intermediation Platforms Market Inquiry” or OIPMI) in terms of Chapter 4A of the Competition Act, 89 of 1998, as amended (“the Act”). In terms of section 43B(1)(a) of the Competition Act 89 of 1998 (as amended), the Commission may initiate an inquiry where it has reason to believe that there exist market features which impede, distort or restrict competition amongst the platforms themselves, and which undermine the purposes of the Act.

Digital platform markets have been at the forefront of the global competition law debates in recent years due to the growing importance of digital platforms in the economy and the high levels of concentration in many of these markets. A number of competition authorities have initiated market inquiries (or market investigations) to address the unique challenges of digital markets. This stems from a recognition that normal enforcement tools may be inadequate on their own to prevent initial market leaders from durably entrenching their position and addressing the irreversibly concentrated platform markets.

The initiation of the Inquiry is a culmination of the work the Commission has been doing in following the global discourse on Digital Markets. In September 2020, in keeping with the global trends in the growing importance of digital platforms in the economy and the high levels of concentration in digital markets, the Commission published for public comment a strategic view on regulating competition in the digital economy. Following written submissions and consultations with stakeholders, that report has been finalised and will be published next week.

The focus for the inquiry will be on online intermediation services which intermediate online transactions between business and consumers for goods, services and software. Such platforms include eCommerce platforms, travel aggregators, food delivery, short-term accommodation rentals, online classifieds and app stores amongst others. The online economy is rapidly growing in importance as a result of the pandemic,

and it is essential that competition in the online economy is not hindered and that the participation of SMEs and firms owned and controlled by historically disadvantaged persons is not undermined.

Features of these markets and the platform business models have been found internationally to create barriers to entry for rival platforms, such as pricing parity clauses, exclusive agreements or conglomerate data sharing and cross-promotion. Furthermore, the importance of certain platforms for reaching consumers online makes business users dependent on them, with issues arising in terms of self-preferencing, discrimination, unfair trading terms, extraction of business data and the potential distortion from ranking algorithms all impacting on competition and participation amongst business users on these platforms. Already in South Africa these markets are becoming concentrated and complaints from business users are emerging.

The Commission is of the view that there is substantial benefit from an inquiry which will also increase transparency as to some of the business practices of online platform markets and how these practices are impacting on competition amongst platforms and participation by business users.

As a first step towards initiating that inquiry, the Commission has published a draft Terms of Reference on its website (www.compcom.co.za) for public comment by no later than 16h00 12 March 2021. The Commission will then review the public comments and gazette the final Terms of Reference before commencing the inquiry.

[ENDS]

Issued by:

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