



**competition commission**  
south africa

## **Media Statement**

**For Immediate Release**

**18 May 2021**

### **COMMISSION INVITES PUBLIC TO COMMENT ON THE AMENDMENT OF THE SMALL MERGER GUIDELINES**

The Competition Commission has amended its guidelines on small merger notifications. The Commission invites stakeholders and the public to provide comments on the draft guidelines, by no later than 17:00 on 21 June 2021.

There is an increasing risk that the growth of digital players through the rising number of acquisitions of new, innovative companies is having a detrimental impact on innovation particularly where these digital companies act as gatekeepers in multiple markets. There are concerns that these potentially anti-competitive acquisitions are escaping regulatory scrutiny due to the acquisitions taking place at an early stage in the life of the target before they have generated sufficient turnover that would trigger merger notification.

The guideline enables the Commission to evaluate whether a small merger requires notification on its own merits, within the guidance provided by section 13(3) of the Competition Act.

The Commission will only consider a small merger notification that meets the following requirements:

- at the time of entering into the transaction any of the firms, or firms within their group, are subject to an investigation by the Commission in terms of Chapter 2 of the Act;
- at the time of entering into the transaction any of the firms, or firms within their group, are respondents to pending proceedings referred by the Commission to the Competition Tribunal in terms of Chapter 2 of the Act;

Furthermore, the Commission will require that it be informed of all small mergers and acquisitions where either the acquiring firm, the target firm, or both, operate in one or more digital market(s) provided at least one of the following criteria are met:

- the consideration for the acquisition or investment exceeds R190 million provided the target firm has activities in South Africa,
- the consideration for the acquisition of a part of the target firm is less than R190 million but effectively values the target firm at R190 million (for example, the acquisition of a 25% stake at R47.5mn) provided the target firm has activities in South Africa and, as a result of the acquisition, the acquiring firm gains access to commercially sensitive information of the target firm or exerts material influence over the target firm within the meaning of section 12(2)(g) of the Act,
- at least one of the parties to the transaction has a market share of 35% or more in at least one digital market, or
- the proposed merger results in combined post-merger market share at which the merged entity gains or reinforces dominance over the market, as defined by the Act.

Submissions can be made electronically to Ms. Phillipine Mpane on [phillipinem@compcom.co.za](mailto:phillipinem@compcom.co.za).

For enquiries contact Ms Tamara Paremoer at [tamarap@compcom.co.za](mailto:tamarap@compcom.co.za).

Click [here](#) to access the guideline.

**[ENDS]**

**Issued by:**

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