

**GROCERY RETAIL SECTOR MARKET INQUIRY**

**Remarks by the Chairperson of the Market Inquiry**

**Professor Halton Cheadle**

**To**

**The Grocery Retail Market Stakeholders**

**ICU BOARDROOM**

**Trevenna Campus, Sunnyside, Pretoria**

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## ***I - Introduction***

1. The purpose of this press conference is two-fold: firstly, it is to talk to stakeholders about what can be expected from the Grocery Retail Market Inquiry; and secondly, it is to indicate what we expect of our stakeholders.
2. Perhaps to give you a roadmap for my remarks, here is what I propose to do. I will segment my address into the following topics:
  - 2.1. Firstly, I will discuss why this Inquiry has been initiated by the Competition Commission. In this section I will discuss the purpose of the Inquiry, the characteristics of the grocery retail sector in South Africa and finally the scope of the Inquiry;
  - 2.2. Secondly, I will draw your attention to today's publication of the Inquiry's draft Statement of Issues, the draft Guidelines for Participation and the draft Administrative Timelines and give a brief outline of these documents; and
  - 2.3. Thirdly, I will discuss how the Inquiry would like to receive submissions on the grocery retail sector and the timelines that are applicable to these submissions. The active co-operation of stakeholders in the work of the Inquiry cannot be understated. Information received from yourselves is crucial to the accuracy and effectiveness of the recommendations that the Panel will make to the Minister of Economic Development at the end of the Inquiry.

## ***II - Rationale for the inquiry***

### *Promulgation and Purpose of the Grocery Retail Inquiry:*

3. On 30 October 2015 the Competition Commission, in the exercise of its powers under the Competition Act 89 of 1998, published a notice that it would conduct a market inquiry

into the grocery retail sector as well as the Inquiry's Terms of Reference<sup>1</sup>. The official commencement date of the Inquiry was 27 November 2015. The Inquiry is expected to be completed by 29 May 2017. The Commission may, by notice in the Government Gazette, however amend this timeframe.

4. The Commission has initiated the Grocery Retail Inquiry in order to:

4.1. Understand how the grocery retail sector operates because the Commission has reason to believe that there exist features or a combination of features in this sector that may prevent, distort or restrict competition; and

4.2. To pursue the purpose of the Act.

5. It must be noted at this point that the Commission, in fulfilling its function<sup>2</sup> during the course of this Inquiry, is assessing the general state of competition in the grocery retail sector without necessarily referring to the conduct or activities of any particular named firm. Consequently the Inquiry is a general investigation into the state, nature and form of competition in this sector, as opposed to being an investigation of the specific conduct of any particular firm.

6. The findings of the Inquiry will provide a factual basis upon which its Panel can make evidence-based recommendations to the Minister of Economic Development in order to promote competition and the purpose of the Act in the sector.

### *The Characteristics of the Grocery Retail Sector*

7. In the Terms of Reference<sup>3</sup>, it is noted that prior to 1994 small informal businesses supplied residents in townships, peri-urban and rural areas with groceries. Despite the importance of small informal businesses in these areas, some research has shown that these businesses have relatively high attrition rates. The Panel will consider:

7.1. whether there has been a decline in the number of small informal businesses in the grocery retail sector within these areas; and

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<sup>1</sup> Section 43A.

<sup>2</sup> As itemized in Section 21 of the Act read together with the provisions of Section 43A.

<sup>3</sup> At paragraph 3.4.

- 7.2. where the Inquiry discovers that there has indeed been a decline in small informal businesses in these areas, the Panel will consider what factors have contributed to this decline as well as the extent to which their decline impacts employment, income levels and the spread of ownership in this sector.
8. The Terms of Reference identify various developments in, and features of, the grocery retail sector that may constitute barriers for small and independent retailers to enter into, expand and effectively compete within this sector.
9. Broadly, these barriers relate to: the high levels of concentration in the grocery retail sector that afford larger players certain economies of scale; the exclusivity clauses in lease agreements entered into between property developers and national supermarket chains; certain features of the grocery retail supply chain such as buyer groups; the regulatory environment; and those barriers that are prevalent in the value chains of certain products stocked by small and independent retailers.
10. The above mentioned barriers or restrictions may affect the ability of competing grocery retailers to effectively respond to increased competitive pressures from, amongst others, national supermarket chains.

#### *The scope of the Grocery Retail Inquiry*

11. The Terms of Reference of the Inquiry define the grocery retail sector to include all shops that predominantly sell fast-moving consumer goods (for example food, toiletries and liquor), whether as wholesalers, retailers, or both. The shops that the Inquiry will be considering range from small informal businesses (including street traders, hawkers, spaza shops and small independent grocery stores) to supermarket chains and wholesale groups or outlets. It must be noted that the Inquiry's assessment:
- 11.1. excludes products such as hardware, clothing and household appliances; and
- 11.2. is mainly (but not exclusively) interested in small and independent grocery retailers in townships, peri-urban areas, rural areas and the informal economy.

12. In line with the Terms of Reference, the Panel proposes to assess competition in the grocery retail sector under six objectives, namely:

12.1. the effects of national supermarket chains moving into townships, peri-urban and rural areas and what the effect of this move has on small and independent retailers and the informal economy within these areas;

12.2. the effect of property developers, financiers and national supermarket chains entering into exclusive lease agreements that restrict landlords from being able to rent space within their developments to other retailers that may potentially compete with these national supermarket chains;

12.3. the dynamics relating to competition between foreign and South African operated small and independent retailers (i.e. spaza shops, general dealers etc.) in townships, peri-urban areas, rural areas and the informal economy;

12.4. the impact of regulations, municipal town planning and by-laws on small and independent retailers in townships, peri-urban areas, rural areas and the informal economy;

12.5. the impact of buyer groups on small and independent retailers in townships, peri-urban areas, rural areas and the informal economy; and

12.6. the impact of certain identified value chains on the operations of small and independent retailers in townships, peri-urban areas, rural areas and the informal economy. These value chains are essential product supply chains which will be identified during the course of the Inquiry.

13. These objectives are not findings of harm nor may they be considered as preliminary conclusions of the Panel on the status of the grocery retail sector. The objectives as listed in the Terms of Reference are starting points for the Inquiry's analysis of this sector and may be amended as required during the course of the Inquiry's assessment, depending on the information received from and submissions made by stakeholders. Furthermore, these objectives are intended to act as a guide to stakeholders when

making their submissions of relevant and related issues that are to be considered by the Panel.

14. The Panel's analysis of the grocery retail sector under these objectives will be guided by the purpose of the Act<sup>4</sup> to promote competition in South Africa in order to achieve a number of public interest goals, including amongst others:

14.1. providing consumers with competitive prices and product choices;

14.2. promoting small and medium-sized enterprises participation in the economy;

14.3. promoting a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons; and

14.4. promoting employment and advance the social and economic welfare of South Africans.

### ***III – Important Publications and Submissions from Stakeholders***

15. Kindly note that the Inquiry has today published for public comment its draft Statement of Issues; draft Guidelines for Participation; and its draft Administrative Timelines. They are available on the Commissions website.

16. These documents will provide further information on: the Inquiry's objectives; how the Panel intends to assess these objectives; the timeline of the Inquiry; and importantly they will discuss the information that we would like to receive from stakeholders.

17. I will now briefly explain each of these documents, and the types of comments we are seeking from the stakeholders in relation to each of the documents.

18. This draft Statement of Issues begins with an invitation to interested parties (including consumers, small and independent grocery retailers, large retailers, Government, and any other interested and affected parties) to participate in the Inquiry. Interested parties are to submit information that would help us to properly understand and analyse the

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<sup>4</sup> As listed in Section 2 of the Act.

grocery retail sector. These submissions will provide the basis for which, we, as the Panel, can make evidence-based recommendations to the Minister of Economic Development in order to promote competition and the purpose of the Act in the grocery retail sector.

19. We would like to hear from stakeholders in relation to any of the six objectives of the Inquiry. As discussed however, the objectives of the Inquiry may not necessarily address all the factors that have an impact on competition in the grocery retail sector and, as such, they are not exhaustive. Therefore, we also invite submissions that fall outside of the Inquiry's listed objectives but which relate to competition concerns within the grocery retail sector within the relevant areas.

20. The draft Statement of Issues invites the public to submit information related to the grocery retail sector, regarding:

20.1. the causes of the barriers and the existence of any factors and developments in the grocery retail sector, which may prevent or affect competition in this sector within the relevant areas;

20.2. the structure of the grocery retail sector as well as the trends and players who operate at each level of this sector's supply chain; and

20.3. the degree of competition between the different players in the grocery retail supply chain.

21. The draft Guidelines for Participation discuss how stakeholders who wish to participate in the proceedings of the Inquiry are to submit their responses and information. This document is designed to ensure a fair opportunity and a transparent process for all stakeholders to effectively participate in the Inquiry. Specifically, these guidelines discuss, amongst other things:

21.1. who may participate in the Inquiry and how they may submit information;

21.2. how confidential information will be safeguarded;

21.3. what are the administrative activities of the Inquiry; and

21.4. what are the powers available to the Commission, the Chairperson and the Panel.

22. The draft Administrative Timelines have been drawn to provide structure and guidance to stakeholders on how to participate in the Inquiry. As initially stated, the co-operation of stakeholders is crucial to the success of this Inquiry. In light of this, we would welcome comments on these draft Administrative Timelines. As much as possible, the Panel will consider these submissions before publishing its Final Administrative Timelines.

23. Anyone may participate in the Inquiry either in person or through a representative. This includes (i) members of the public (ii) firms; (iii) organised groups (iv) Government; and (v) any other party that has an interest in the Inquiry or is affected by the subject matter of the Inquiry.

24. The Panel would also like to specifically invite consumers and spaza shops, general dealers, independent supermarkets and all other small grocery retailers to make submissions on the issues set out in the draft Statement of Issues.

#### ***IV – How do you submit information and documents?***

25. The Inquiry welcomes your written submissions in response to the draft Statement of Issues as read together with the Terms of Reference.

26. Anyone requiring further information, or who has difficulty in making submissions for whatever reason, may contact the Commission's technical team for assistance in doing so.

27. Please note that there is a deadline for the submission of comments on the Inquiry's draft Statement of Issues, draft Guidelines for Participation and its draft Administrative Timelines. The deadline for accepting stakeholders' submissions in relation to these document is no later than 15 June 2016.

## ***V – Conclusion***

28. For the next year or so we will all be working together. We hope that over the coming months we will develop a mutual sense of trust that is vital for the proper conduct of the Inquiry. This Inquiry is not merely important to us as the Commission nor to you as a stakeholder, but it is important to the nation as a whole because we hope its result will be to promote competition in South Africa and in so doing to promote the efficiency, adaptability and development of the South African economy to the benefit of all.

**THANK YOU FOR YOUR ATTENTION**