



CCRED
CENTRE FOR COMPETITION,
REGULATION AND
ECONOMIC DEVELOPMENT

COMMENTS ON THE ONLINE INTERMEDIATION PLATFORMS MARKET INQUIRY (OIPMI) STATEMENT OF ISSUES

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ATT: James Hodge, Chairperson of the Online Intermediation Platforms Market Inquiry (OIPMI)

RE: Inputs on OIPMI Statement of Issues

1. We welcome the opportunity to comment on the Statement of Issues released on 19 May 2021, read in conjunction with the Terms of Reference gazetted on 9 April 2021.¹
2. This submission is in addition to submissions made on 15 March 2021 by CCRED² on the draft Terms of Reference in which insights from CCRED's work on the digital

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² By Prof Roberts and Dr Vilakazi

economy in its capacity as the host of the DTIC supported Industrial Development Think Tank (IDTT) were highlighted.

3. Research on developments in digital platforms is an important and ongoing area of work for CCRED, especially with respect to the impact on the participation and competitiveness of smaller players and entrepreneurs. The use of digital platforms has been turbo-charged since the onset of the COVID-19 pandemic in South Africa, with innovative business models emerging that require competitive playing fields and necessary support to grow and develop. We would be happy to engage further, especially given our focus on effects on smaller businesses in key sectors who may not have the time and resources to make submissions themselves, notwithstanding the efforts of the inquiry.
4. This submission is set out as follows.
 - a. First, we submit research undertaken by CCRED on digital platforms in food systems ('foodtech') which highlights trends and challenges in the use of different online intermediation platform markets.
 - b. Second, we submit CCRED research that has assessed competition dynamics in digital platforms in the tourism sector, with a focus on firms that appear to have market power.
 - c. Third, CCRED research on trends in online retailing, and the role of traditional retailers in adapting to growing e-commerce sales is submitted. This set of research also assesses the opportunities available for SMEs and the regulatory challenges that emerge from growing online sales.
 - d. Fourth, we emphasize the importance of access to routes to markets, including online markets, and the barriers to entry that SMEs face in this regard. Alternative local options to the incumbent global tech giants would benefit SMEs, but these local platforms often have to interface in some way with established incumbents and this dependency can pose limitations to their growth.
 - e. Fifth, we refer the inquiry to the recommendations in the submitted papers as well as opportunities to consider, in parallel to the inquiry process, ways in which on-going monitoring and *ex ante* pro-competitive regulation of digital platforms could be pursued.
 - f. We also highlight a potential data source on e-commerce trends in South Africa that the inquiry may find useful.

Digital platforms in food systems

5. CCRED's research on 'Foodtech' in South Africa has highlighted the emergence of new business models that have the potential, if supported, to become avenues for growth for SMEs and/or HDP firms in food systems. Two pieces of research are presented here for information: 1) *das Nair and Krishnan (2020), Combating Covid-19: The promise of foodtech in SA. The Daily Maverick, 24 May 2020*³ and 2) *das Nair and Krishnan (2021), Supporting inclusion of small, medium and micro enterprises (SMMEs) in foodtech in South Africa, IDTT Research Brief.*

6. Both these pieces of research demonstrate new value propositions that emerge with advances in foodtech for SMEs and the challenges that they face. We see these pieces of research as contributing to the inquiry's *Scope item 1: Evaluate trends in adoption and use of the different online intermediation platform markets, including the identification of leading platforms across each market.;* *Scope item 4: Evaluate whether platform conduct, contracts, prices and terms of use with business users are discriminatory or unfair, and the likely effect thereof on consumer choice, competition amongst business users and the participation of SMEs and HDP owned firms...;* and *Scope item 6: Evaluate any other barriers to entry into online commerce for SMEs and HDP owned firms, including but not limited to marketing costs, technological, policy and product challenges.*

7. The assessments in both these pieces of research are wider than from a pure competition perspective and take a value chain approach in understanding the landscape for SMEs and foodtech in South Africa. We understand the inquiry's scope to be focused more on 'Business to Consumer' or 'B2C' platforms. However, this research shows that there are also opportunities for SMEs to participate in 'Business to Business' or 'B2B' platforms. These include, for example, small virtual kitchens which sell to other businesses (such as catering, events and professionals), and apps like Vuleka and Spazzap which offer ordering systems which help spaza shop owners purchase goods collectively from manufacturers, allowing them to build credit profiles to buy stock on credit. Another example is a 'local store connector' platform which provides a matchmaking service through linking lists of customers to offers and deals provided by registered spazas on the platform. As such, it provides a business offering to spaza shops, a key retail channel that typically services the most vulnerable of consumers.

³ <https://www.dailymaverick.co.za/opinionista/2020-05-24-combating-covid-19-the-promise-of-foodtech-in-sa/>

8. Some small B2B platforms rely on existing platforms like Uber Eats and Uber Connect⁴ for delivery. The articles highlight the challenges and costs (in the form of fees and commissions) faced by both SMEs in food processing and emerging small platforms in accessing the larger incumbent platforms. These potentially reflect the exertion of market power and can be assessed in the inquiry. We note that this is consistent with international concerns around high platform fees, especially during COVID-19, and regulatory/competition responses to this in China, the Philippines, Singapore and USA.
9. While there are competition and market power concerns, the articles also highlight the interface with policy challenges and propose that future policy initiatives in the food sector, such as the Agriculture and Agroprocessing Master Plan, need to take into account 'foodtech' developments and opportunities.

Digital platforms in the tourism sector

10. We submit a paper by Goga (2020), *The Impact of Digital Platforms On Competition in The South African Tourism Industry*, which maps the landscape of the use of digital platforms and data in tourism, with a specific focus on firms that appear to have market power. The paper investigates the nature of these platforms and the manner in which they alter competitive dynamics in the underlying industries, for example by playing a gatekeeper role, controlling access to customers or markets or changing the terms on which companies can compete in offline markets. The research investigates interventions in the tourism sector in other countries (such as restrictions on most-favoured nation clauses by hotel booking platforms).
11. This paper contributes, in addition to the other scope items, to the inquiry's *Scope item 2: Evaluate whether any market features, platform conduct and/or contracts and terms of use with business users and consumers are likely to have the effect of raising barriers to entry and reducing competition amongst platforms domestically. These include, but are not limited to, MFN or price parity clauses, exclusive contracting, loyalty incentives, conglomerate leveraging (incl. data and advertising) and predation.*

⁴ Uber Connect is a relatively new product offering in South Africa that allows users to send packages through the app, therefore supporting B2B models.

E-commerce

12. We submit a set of papers which we believe provide useful insights on online retailing in South Africa which contribute to several scope items of the inquiry. These papers are: *Goga, Paelo and Nyamwena (2019), Online Retailing in South Africa: An overview; Goga and Paelo (2019), Strategies for Adapting to Online Entry: The Case of Retailers in South Africa; Goga and Paelo (2019), Issues in the Regulation and Policy surrounding e-commerce in South Africa; and Goga and Paelo (2020), An E-commerce revolution in retail?*
13. Over and above providing an overview of trends in online retailing in South Africa, these papers raise a range of diverse issues in the e-commerce space. For example, one of the papers discusses the responses of bricks and mortar retailers to growing online sales, and their diversification strategies as omni-channel retailers. Another highlights a wider set of issues that arise as e-commerce grows and enhances the scope for suppliers and retailers internationally to access consumers in vastly different geographic contexts, including across national borders. This brings together coordination issues for a range of policies including competition policy, taxation, industrial policy, trade, data protection and the protection of intellectual property.

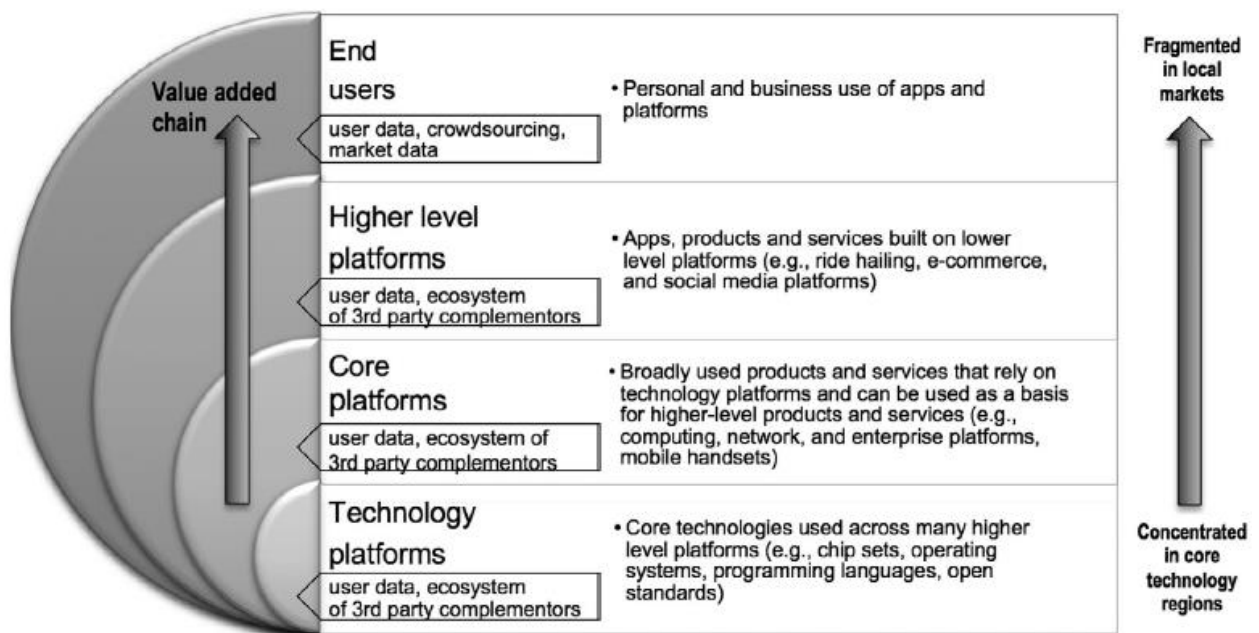
Barriers to entry, access to markets and dependency on incumbents

14. A key area of CCRED's research focus has been on barriers to entry and access to routes to markets.⁵ We therefore fully support the OIPMI's Scope Item 6 which seeks to evaluate any other barriers to entry into online commerce for SMEs and HDP owned firms, including but not limited to marketing costs, technological, policy and product challenges. SMEs benefit from a greater diversity of routes to markets, and face lower risks of abuse of buyer power from dominant routes, such as bricks and mortar retailers, if they have effective alternative sales channels. Online platforms present such alternative routes to market for SMEs, but there are still challenges faced in terms of establishing trust, creating an online brand image and presence, and gaining sufficient exposure to marketplaces. The inquiry would need to unpack these and other barriers further.
15. While a diversity of routes to market is important, so is competition between digital platforms, as the inquiry statement of issues recognizes. The development of the

⁵ <https://www.competition.org.za/competition-and-barriers-to-entry>; Vilakazi, T., S. Goga and S. Roberts (eds) *Opening the South African Economy? Barriers to Entry, Regulation and Competition*, 2020, HSRC Press (open access).

digital economy has seen an element of dependencies on foundational major platforms or technologies. As Sturgeon (2019: 12-13)⁶ highlights, “*the digital economy has developed as a set of nested modules and platforms [...] at a more foundational level technology platforms offer discrete functional elements, upon which core platforms can be developed to provide higher-level functionality [...] Above these, higher-level platforms can connect users and buyers to suppliers and vendors of goods and services across “two-sided” platforms*” (Figure below). Dr Sturgeon (based at MIT) has been working with the IDTT and is engaged in analysing the impacts of digital platforms across a number of countries, including Brazil.⁷

Figure: Platform layering as a value chain in the digital economy



Source: Sturgeon, 2019:13

16. Roberts and Andreoni (2020:9⁸, attached) suggest that “*this ‘layered structure’ offers multiple entry points for potential company complementors as well as building up customised higher-level platforms reflecting data and country context specificity*”.

⁶ Sturgeon, T. (2019) Upgrading strategies for the digital economy. *Global Strategy Journal*, 1-24. DOI: 10.1002/gsj.1364

⁷ Andreoni, A., A. Black, J. Barnes, T. Sturgeon (2021) Digitalization, industrialization and skills development opportunities and challenges for middle income countries’, in Andreoni, A., P. Mondliwa, S. Roberts, F. Tregenna (eds) *Structural transformation in South Africa: the challenges of inclusive industrial development in a middle-income country*, OUP (forthcoming August 2021)

⁸ Governing data and digital platforms in middle income countries: regulations, competition and industrial policies, with sectoral case studies from South Africa. October 2020 - Digital Pathways at Oxford.

Local platforms that emerge through this nested evolution that have to interface with, or are dependent on, dominant incumbents to some degree, can face limitations to their growth. CCRED recommends that the Inquiry engages with black-owned company Brownsense, which is a Facebook based group connecting HDP owned service providers (for example, plumbers, cleaning services and artisans) with a growing set of black customers/buyers, to evaluate these limitations.

17. A key challenge that has been raised by Brownsense is that Facebook does not enable the group operators to access the level of detailed data required to enable it to analyse customer interactions, usage of the group, and to distinguish users and business owners – all of which is required to enable the group to expand its service offered and monetize usage. This is especially relevant for the inquiry to the extent that entities such as Brownsense could potentially grow their offering to evolve into a self-standing, competing platform in future. The restrictions imposed by Facebook create barriers to entry for potential rivals in platforms, and it is important to understand this dependency in a multidimensional sense. These core technologies can act as gatekeepers to accessing online markets and can limit the growth of emerging local platforms.

Preliminary guidance on the form that recommendations could take and nature of remedies

18. While it is relatively early in the inquiry process to craft recommendations, we highlight that in the conclusions of each of the CCRED papers submitted, recommendations on the various concerns raised are suggested. These can provide insights on the form that some of the recommendations or remedies could take, with an emphasis on balancing the incentives for platforms to invest in South Africa with the imperative to ensure participation and inclusive growth in the digital economy.
19. Given the dynamism of digital markets, it would be useful to consider opportunities for ongoing monitoring of these markets, in parallel to the inquiry process. Various considerations in this regard are set out thematically below. The inquiry is also referred to the attached brief which points to policy options for South Africa with respect to digital markets (*Vilakazi (2020), Policy Proposals for South Africa on the Digital Economy*).

Increased access to data

20. Data is important for firms to be able to forecast demand. Online intermediation platforms are in a privileged position given that they are able to observe data on third

party businesses and consumers. While this is a distinct advantage of large online platforms operating at scale, it represents a concern when vertically integrated platforms are competing against the same third parties downstream. This would place the integrated online intermediation platform at an advantage in the market and potentially enable them to keep out rival firms. This is because at all times they would have up to date information on consumer behaviour which would enable them to leverage their position in the market.

21. The ability of businesses to access their data on these platforms can be difficult given that consumers' privacy is often protected and there is also no obligation for this information to be shared. Rules for larger platforms to provide data to businesses that interface with the platform are an important potential remedy. This could be achieved by online intermediation platforms providing some level of aggregated and anonymized data which comprises data that is considered essential and which would enable businesses to compete and for new entrants to be able to gain critical mass upon entry into the market. We note however that this process would have to be subject to strict conditions which would set out the data to be shared as well as the terms under which the sharing would take place.

Increased transparency of algorithms

22. Digital platforms use very complex algorithms to perform their functions. As has been recognised by competition authorities around the world, understanding algorithms and the rules or factors that go into the algorithm is important for the assessment of competition. The hesitancy on the part of these platforms to provide access to the algorithms would be that this would represent competitively sensitive information. However, in complaint proceedings and merger evaluations it can be difficult to fully understand the market position of a firm if this information is not provided. This is because when firms make changes to the algorithm it is difficult to assess whether this change has been implemented fairly and not to the detriment of competition. A recommendation could be that firms disclose this information to the Commission as part of such proceedings in addition to technical expertise to understand this information.

Market power evaluation

23. CCRED research has highlighted the importance of understanding market power as potentially resulting from multi-dimensional and mutually reinforcing arrangements, including resulting from consumer behaviour and reluctance to switch, network effects, and through different levels of value chains. What may appear to be even small market

shares in a candidate competition market may be consistent with substantial market power.⁹

Data source

24. We note that Euromonitor International (Passport) produces country data, datagraphics and analysis on e-commerce in South Africa which the inquiry may find useful. Examples are provided as part of this submission, and full reports and access to datasets are available through subscription. We are not advocating for the use this data or analysis, nor can we vouch for its accuracy. We are merely alerting the inquiry to its existence and that it might be useful to provide a high-level overview of the South African e-commerce space.

Yours sincerely,

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⁹ See for instance, Mondliwa, P. S. Roberts, S. Ponte (2020) 'Competition and Power in Global Value Chains', *Competition and Change*, <https://doi.org/10.1177/1024529420975154>