ONLINE INTERMEDIATION PLATFORMS MARKET INQUIRY

FURTHER STATEMENT OF ISSUES

Date: 17 August 2021

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1. INTRODUCTION

1. On 9 April 2021, the Competition Commission ("the Commission"), published a notice regarding a market inquiry into Online Platforms in South Africa focusing on online intermediation services (the "Online Platforms Market Inquiry", "Inquiry" or OIPMI). Online intermediation platforms are defined as platforms that facilitate transactions between business users and consumers (or so-called "B2C" platforms) for the sale of goods, services and software, regardless of whether the transactions are concluded on the platform itself, on the online site of the business user or offline.[1]

2. The Commission formally initiated the Inquiry on 19 May 2021 in terms of section 43B(1)(a) of the Competition Act 89 of 1998 (as amended) ("the Act"). The initiation was followed by the release of the Statement of Issues (SOI) along with Requests for Information (RFIs) to various online platforms and an online business user survey. Responses to the RFIs and SOI were due on 18 June 2021 with some extensions granted to the end of June. The first SOI and set of RFIs were primarily targeted at getting an initial understanding of some of the market dynamics and the sort of business practices occurring across different online intermediation platform types operating in South Africa.

3. This further statement of issues (FSOI) uses the initial observations and insights from the first phase of information gathering to provide some additional focused issue statements for input from stakeholders. The FSOI is accompanied by further RFIs and stakeholder engagements to get an even deeper understanding of these further issues in addition to expanding on the original SOI issues. The Inquiry process is iterative and the FSOI includes only some preliminary insights and observations. <u>The FSOI in no way limits the set of issues that the Inquiry is considering, nor does it replace the initial SOI.</u> Further engagements with business users and stakeholders will likely bring other potential issues to the fore.

4. In releasing this FSOI, the Inquiry invites market participants and other interested parties (collectively "stakeholders") to provide views and information on the additional issues identified. The FSOI is structured around the broad platform categories identified in the original SOI, and stakeholders are encouraged to provide views on those platform categories with

[1] Online intermediation platforms include eCommerce marketplaces, online classified marketplaces, software application stores and intermediated services such as accommodation, travel, transport and food delivery.

which they familiar. Stakeholders do not have to address every question in this FSOI. Wherever possible, please provide reasons for your views and any evidence available to support your views. Reasons and evidence provide a stronger basis for the Inquiry to take account of the views expressed.

5. You may provide your submission to the Inquiry in the form of a public or confidential submission, noting that the Inquiry is a public process and that, in general, submissions will be placed on the Inquiry's website to allow for public consultation. You are encouraged to speak with our team before providing a confidential submission if you have any questions at all regarding the Inquiry's processes for dealing with confidential information. Stakeholders providing a confidential submission must provide the Inquiry with a public redacted version to be placed on the Inquiry website.

6. Written submissions to this Further Statement of Issues should be emailed to oipmi@compcom.co.za by 17h00 on **23 September 2021.**

7. For business users of online intermediation platforms, there is also an online questionnaire on the Inquiry's webpage on the Commission's website (http://www.compcom.co.za/online-intermediation-platforms-market-inquiry/). This solicits the views and experiences of business users of online intermediation platforms operating in South Africa. The survey has recently been updated to reduce the time for completion and solicit views on some of the emerging issues. Business users are strongly encouraged to complete the online survey as this provides an important means for their voices to be heard in the Inquiry process.

8. The full Guidelines for Participation in the OIPMI, including the treatment of confidential information, are available on the Inquiry page of the Commission's website.

2. ECOMMERCE MARKETPLACES

Platform landscape and trends

9. eCommerce intermediation platforms that facilitate actual sales for third party sellers appear to make use of two main business models.

    a. The first is to offer a platform for sellers to market their products to consumers, with the platform simply taking orders and payment from the consumer, and with the sellers then fulfilling the order delivery from their own store or warehouse (e.g. bidorbuy, Leroy Merlin). This model is asset light (no physical infrastructure), low risk (no stock holdings) and operationally simple (no storage or delivery logistics) for the platform. The primary focus is on drawing consumers to the platform through marketing and bringing in sellers with attractive products. However, the downside appears to be that there may be less control over the customer experience as these mostly lie with the sellers on the platform, incl. product range, pricing and delivery speed. Platforms attempt to deal with this by signing and enforcing service level agreements (SLAs) with the sellers.

    b. The second is to offer a full suite of options, namely the online retail of products sourced from suppliers and held in stock by the platform, the holding of consignment stock of third-party sellers in warehouses along with the distribution of orders from this stock, and on-demand distribution services where the seller supplies to the warehouse when orders are received for last mile delivery (e.g. Takealot, Loot, Zando). This model requires more assets, holds more risks and is more complex operationally as the platform needs to invest in (or outsource) warehousing and logistics and manage logistics with third party sellers. However, the upside appears to be that there is more control over the customer experience through larger product ranges with express delivery, guaranteed stock and express delivery. It appears that this model is often adopted by platforms that start as online retailers with investments in warehousing and delivery logistics. The rationale for expansion into intermediation for third parties may be the ability to expand the product range without taking on as much risk on whether the products will sell, whilst retailing known brands with predictable demand. It also seems to be a way to develop scale more rapidly.

c. In both business models, a second dimension for consideration is whether to concentrate on a specialist category or to offer products across many categories. The specialist may seek to drive consumer traffic through being the best in class for a particular category, whereas the general platform may seek to drive traffic from being a convenient one-stop-shop with lower overall unit costs.

10. A further category of online intermediation platform within shopping are platforms that facilitate transaction leads for third parties, primarily through comparison shopping sites (e.g. Pricecheck, Google Shopping). These platforms contract with eCommerce marketplaces, online retailers and brick ‘n mortar (B&M) stores with an online sales channel or catalogue to receive their catalogue and pricing. The business model is to draw in consumers through marketing the benefit of price comparison across many retailers, and then charge the business users on a cost per click (CPC) basis.

11. Aside from the platforms which provide a marketplace for third party sellers, there are pure online retail stores which may be category specialists (e.g. Superbalist, YuppieChef) or generalists. In addition, suppliers may have their own online sales channels (e.g. Apple) and B&M stores may engage in online sales of products they source for their stores (e.g. The Foschini Group).

12. The preliminary evidence suggests that eCommerce marketplaces and pure online retailers have a disproportionate share of online sales in most product categories relative to the B&M or supplier online portals. However, the extent of share does vary across some product categories.

    a. It appears that pure online retailers and eCommerce marketplaces have a strong advantage over the online channel of B&M stores in product categories where everyone has access to the same brands or product range (e.g. electronics & appliances, books, general merchandise, sportwear, beauty and health). In these categories, the pure online platform appears to benefit from being designed around, and focused on, the online consumer. For instance, it can offer a far wider product range than a B&M store or chain, potentially outspend on marketing to online consumers (e.g. search and comparative shopping), offer a better consumer interface and more efficient delivery. In addition, the pure online platform is likely to have lower costs given it does not carry a legacy of B&M stores. This is even though B&M stores can make use of third-party services to collectively package an online presence (from website set-up, online payment and warehousing/delivery logistics).

b. It appears that B&M stores do better where they have developed their own brands or have exclusive brand access which enables them to differentiate from the online platforms. This is most apparent in fashion (clothing & footwear) and homeware. Regulatory barriers may also provide an advantage to B&M stores such as in dispensing pharmacy. However, this seems to apply mostly to large established B&M retailers or retail brands that are widely recognised by consumers who frequent their physical stores, rather than smaller retailers which may battle to get visibility online due to being outspent on search marketing. However, online sales remain a small part of the overall business and focus of B&M stores, even for large chains in these product categories, and that may play to the advantage of the pure online retailers.

c. From a supplier perspective, online is becoming an increasingly important channel and relative bargaining power is likely to depend on the alternatives available within this channel to reach the online consumer for sales or leads.[2] Such choice is likely to be more limited for SME suppliers relative to larger brands which may also be available on online retail and B&M online store catalogues, rather than simply depending on eCommerce marketplaces.

13. Preliminary evidence indicates that Takealot has a substantial share of all eCommerce in South Africa, and even more so within online intermediation platforms (or eCommerce marketplaces). It seems that some of the early domestic entrants have failed to scale in line with the overall online market growth, including during the accelerated growth in online traffic during the pandemic, with some even experiencing dropping customer volumes. Most eCommerce marketplaces it seems are loss-making which may be the result of pursuing growth aggressively or falling behind in the competition to do so. Interestingly, international

[2] If a certain proportion of consumers will make their purchase online, then visibility in that specific channel becomes important to ensure a share of those channel sales.

platform Amazon still has substantial sales into South Africa (even where the sale of e-books has been excluded). Within the shopping comparator segment, the domestic leader PriceCheck has rapidly been overtaken by Google Shopping since its launch in 2017.

Questions:

1. What factors impact on consumer choice of whether to make use of a B&M online store, an online retailer or eCommerce platform?
2. Do online focused platforms enjoy cost or other advantages over B&M stores in the online channel?
3. Does the existence of other online or B&M channels impact on the commissions charged and conditions of use by eCommerce marketplaces to a) branded product suppliers, and b) SME business users?
4. How important are price comparison websites for directing consumer traffic and consumer decision-making on purchases for a) eCommerce platforms, and b) other online stores?

Platform competition

14. As with all online platforms, marketing spend to draw consumers to the platform and build the online store brand is an important part of the business model. In this respect, marketing appears to be focused on search marketing (general Google Ads search and comparator shopping sites) and above-the-line (ATL) brand building advertising (online and traditional channels). There is also an emphasis on retargeting past customers through direct marketing (email, SMS, direct messaging, banner advertising) based on products previously purchased or searched. Promoting consumer trial through free spend and discounts initially are also used. As several platforms are linked to media companies, there may be scope for group discounts to reduce the cost of marketing for those platforms which may provide advantages over rivals. The sharing of consumer contact information along with consumer preferences from related platforms may also be used to target consumers directly with offers.

15. After drawing the consumer to the platform, the platform would need to deliver on other elements that are likely to be important to the consumer. This includes the extent of product range, pricing, ease of use/navigation of the platform, ease of payment and fast, reliable delivery. Efficiency of operations will also be important to contain operating costs. In the long run, scale is likely to be critical for efficiency and profitability as greater scale will reduce unit

costs per transaction, including delivery costs. The pursuit of scale is likely to be one reason for companies chasing growth over profits in the short term. It is also likely to result in scaled platforms having an advantage over unscaled platforms, both on unit costs and absolute marketing spend levels. Capital funding is therefore likely to be a factor in platform competition with most platforms operating at a loss and a question whether smaller platforms can survive or thrive in the future without such backing.

16. As outlined above, it appears that the retail offering of eCommerce platforms play an important role in drawing in consumers through providing the full range of key brands on the platform consistently at a competitive price. This seems to be the case from the fact that pure marketplace models do not appear to have taken a material share of online sales in South Africa. The relationships with these brand suppliers insofar as product range access, wholesale pricing and rebates/discounts will therefore have an impact on platform competition.

17. From the preliminary evidence, it does not appear that exclusivity for branded supplier products is a material feature of eCommerce platforms in South Africa. A few exclusive contracts exist for products sold in South Africa more broadly but this is not on large brands. For eCommerce platforms with retail and marketplace options, there exist platform-specific exclusivities whereby the retail side of the business gets product or product launch exclusivity from branded suppliers. This means that the branded supplier or third-party sellers would not be allowed to sell or launch the product on the platform, only the platform owner.

18. Platform exclusivity also does not appear to be a feature for third-party sellers either, with these sellers able to use their own and other platforms. However, some platforms do make use of price parity provisions which require these sellers to price no less favourably on the platform relative to their own or other sales channels. Some platforms have indicated that this provision is not enforced, but the clause has not been removed and there is no evidence before the Inquiry that sellers understand that the clause will not be enforced. This is relevant insofar as there are typically penalties for contravention of such clauses and so sellers may be reluctant to contravene whilst the clause remains in place. The Inquiry needs to understand the implications of such clauses for eCommerce platform competition as these have been

considered to potentially hinder competition in other platform types (e.g. travel and accommodation platforms).

19. The Inquiry does need to understand better the role of promotions and discounting on eCommerce platforms. It appears that promotions are an important lever to draw in consumers as online is sometimes perceived to be a discounted or cheaper channel for consumers. Online channels are also known for specific promotions such as Black Friday. The Inquiry would like to understand the requirement or incentive for branded suppliers and third party sellers to offer promotional pricing on the platform, and the extent to which the platform itself funds any promotions. It would also be of interest to know whether promotional activity across platforms is impacted by price parity clauses, and if there is an incentive to undertake more promotions on larger platforms. Price parity alongside promotions may reinforce the consumer perception that certain platforms consistently offer the best prices which may result in consumers defaulting to those platforms.

20. In terms of shopping price comparison sites, the primary competitive levers appear to be mainly consumer marketing to draw consumers to the platform, and then business user contracting to provide the consumer with a wide variety of competing products with accurate prices for their product search. A direct contractual relationship with the businesses seems important if the comparator site is to get a timely feed of accurate information rather than relying on screen scraping, and to ensure a revenue stream from the business. However, securing the revenue stream will depend on how many click throughs and sales result from consumers. The near universality of Google search in South Africa and its role in search marketing for price comparison sites has resulted in enforcement action in the EC over preferential treatment for Google Shopping. Naturally, the same questions may be raised in the South African context as Google search is pervasive in South Africa too and it has launched Google Shopping. The Inquiry has also established that in recent years the search visibility performance of PriceCheck has deteriorated and Google Search has quickly grown.

Questions:
5. Does marketing spend constitute a barrier to entry and expansion by other platforms?

6. Does the relationship with branded suppliers matter for platform competition, and how do wholesale prices and rebates vary across platforms and relative to B&M online stores? Are branded suppliers subject to price parity clauses too?
7. What is the third-party seller's understanding of price parity clauses in their contracts and enforceability risks of not adhering to them? What is the impact on platform competition of price parity clauses for online third-party sellers in respect of a) their own online sales channel only, and b) all other platforms? Are these clauses objectively necessary to achieve certain efficiencies or reduce free riding?
8. What are the incentives for promotional activity on platforms and do suppliers or third-party sellers promote more on larger platforms relative to smaller ones, or other channels?
9. Does Google's position as search engine and price comparator site competitor place it in a position to influence competition for price comparator sites specifically, and eCommerce platform competition more broadly?

Business user competition and treatment (incl. SMEs)

21. For all eCommerce platforms there is the ability to search by category and at any stage refine the search with a keyword search. The search algorithms use the search term to identify the most likely products for inclusion in the display ranking. The relevant products will then be ordered based on factors relating to the customer (e.g. past searches, preferences based on past orders, wish lists, etc) and the product itself (pricing, ratings, lead time, order conversions). On many platforms, businesses can impact on their ranking through sponsored rankings, promotions and display prominence purchases. In some cases, this may be through an auction mechanism or a more simple pay-for-position mechanism. Promotions typically will be a factor which increases a ranking even if there is no direct payment for ranking improvement.

22. Given that the more prominent eCommerce platforms operate on a hybrid model with their own retail offering, questions do arise about whether the ranking favours the platform's own retail product over third parties. This includes own brands as well as products that the platform sources from suppliers for retail. The platforms themselves indicate that they have no incentive to do so and that they do not do so. Inquiries of this sort globally seek to establish if there is an overt bias or implicit bias by weighting factors that own retail would have a natural

advantage in. Such inquiries have also highlighted where factors may also direct the third parties to make use of additional services from the platform. For instance, the Inquiry understands that delivery timing is often a factor used in search, and this is likely to favour products in the warehouse over products supplied in response to an order. This will include own retail products and those third parties making use of warehouse facilities. This factor is therefore also likely to encourage using the warehousing facilities and fulfilment by the platform. Price promotion on the platform may be another action that is rewarded with better placement.

23. The rationale for certain selecting products for own retail rather than third-party seller supply, and the relationship between own retail suppliers and third-party sellers is something the Inquiry wishes to understand better. This includes the information that is used by the platforms to determine what to retail itself, and any conduct that may limit the activities of third party sellers in terms of product range but also pricing / promotions where they compete with the own retail product.

24. It appears that eCommerce platforms tend to have uniform terms and conditions for third party sellers even if they may have some variation amongst own retail suppliers. This seems to stem from the need to simplify contracting with hundreds or thousands of sellers. As a result, terms and conditions, including commissions and fees, appear not to be negotiable but rather set out by the platform. Terms and conditions seek to regulate a wide range of situations that may occur in the interactions between the parties as well as consumers, seemingly to reduce scope for disputes. Platforms tend to also incorporate the right to change the terms and conditions without engagement with third-party sellers, who are deemed to have accepted them if they continue to trade. The notice period for such changes vary by platform.

25. Smaller third-party sellers appear to be fairly dependent on eCommerce marketplaces for online sales. Whilst they may have alternative channels, the dependency may arise from a difficulty to build online visibility (or discoverability) for their own online website given the importance of search marketing spend and that their B&M retail options may be localised rather than national (e.g. a national chain listing). Whether there is dependency and whether it is exploited by platforms, or can be in the future, is something the Inquiry wishes to understand. The current review of conditions indicates that some appear to be one-sided in

favour of platforms or may unreasonably transfer a risk that is in the control of the platform to the third-party seller. For instance, liability for errors may fall to the seller even if it is the platform at fault, the platform may determine third-party return policy and consumer compensation by the seller, one-sided payment terms including offsets and disputes, and removal from the platform without notice under particular circumstances. How these terms are enforced in practice may inform the assessment of fairness.

26. Whilst many sellers on the platforms may constitute SMEs, eCommerce platforms do not appear to have any specific support programmes in place to promote participation by SMEs and historically disadvantaged person (HDP) sellers. The Inquiry is also interested in understanding the extent of participation on these platforms by SMEs, and in particular HDP sellers.

Questions:

10. What is the rationale for selecting some products for own retail and others left to third party sellers? What information is used in making this determination?
11. Given the election to retail certain products itself, is there an incentive for platforms to favour own retail products over third-party sellers in some instances? Do the ranking factors used by platforms create any implicit bias in favour of the online retail products of the platform relative to third party sellers?
12. Do the ranking factors promote the use of platform services by third-party sellers such as warehousing and order fulfilment or price promotions?
13. Do terms and conditions reasonably reflect where the control of different risks lie between the platform and third-party sellers?
14. What is the extent of HDP participation on eCommerce platforms? Should eCommerce platforms be doing more to support participation by SMEs and HDP third-party sellers, and if so, what?

3. TRAVEL AND ACCOMMODATION PLATFORM SERVICES

Platform landscape and trends

27. Online travel and accommodation platforms can be divided into online travel agencies (OTAs) and metasearch engines (MSEs) or travel aggregators. Whilst both OTAs and MSEs seek to draw travellers to their platforms, the distinction is that OTAs allow travel and accommodation providers to list on their platforms and consumers can complete bookings for accommodation, travel experiences (on a commission basis), car rentals and flights (on a markup basis including commissions, GDS revenues, service fees and add-on sales) whereas metasearch engines provide advertising space and leads for OTAs and sometimes travel/accommodation providers directly (on a cost-per-click or CPC basis), referring travellers to other sites to complete bookings.

28. The domestic travel and tourism industry targets both international travellers and domestic travellers. It appears that the global OTAs/MSEs[3] are the primary online platforms used by international travellers as their brands are well known in tourism source countries and they target global travel through accommodation and travel listings across most travel destinations globally, including South Africa. Domestic OTAs[4] in contrast primarily target domestic travellers with accommodation listings exclusively in South Africa or the region and seem to face difficulties in competing for international travellers to South Africa. The global OTAs/MSEs also compete for domestic travellers given that they have extensive South African accommodation (i.e. particularly in popular travel destinations and cities) and travel listings, and well-known brands. These platforms will also be of relevance to South Africans wanting to travel beyond our borders, including the region.

29. A further feature of OTAs is that they tend to operate an ecosystem of platforms and services. Whereas a platform may have its origins in providing accommodation or flight listings, many have evolved to offer a full package (or part thereof) of travel options (accommodation, experiences, flights, and car rental) either through acquisition or organic growth. There is a

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[3] Global OTAs relevant to South Africa include, but are not limited to, Booking.com, Expedia, Airbnb, Agoda, za.hotels.com, Trip.com, eDreams ODIGEO and Hostelworld. Metasearch engines relevant to South Africa include, but are not limited to, Trivago, Kayak, Tripadvisor, Skyscanner, HotelsCombined, Cheapflights, and Google Travel.
[4] Local OTAs include, but are not limited to, LekkeSlaap, TravelGround, Travelstart, Afristay, Safarinow, Computicket, SA-Venues, SA Places, Rooms4Africa and Travelcheck.

trend towards promoting the sale of bundled travel packages by OTAs which effectively act as a one-stop-shop to satisfy consumer travel needs, but it seems South Africans make limited use of bundles currently. These travel products are typically sold as a bundle in the initial purchase or as an add-on (or upsell) once the traveller has booked an item through a platform.[5] Consumers are typically attracted by the discounted bundle or upsell price. These services may be offered on the same platform or refer travellers through to another platform, or both. Given the dynamic nature of the travel and accommodation market, bundled travel products are likely to be a prominent feature of the market going forward. Several large global platforms also operate MSEs which may direct bookings to their OTAs, causing possible concerns of self-preferencing. In addition, these large global platforms typically operate several platform brands that may target different types of travellers, accommodation or regions more effectively.[6]

30. Key metrics for assessing platform size and position include site traffic (and active monthly users) and actual sales (number of transactions) or leads. Other key metrics include net night rooms booked, commissions earned, gross booking value, flight tickets sold, car rental days and activity seats booked for OTAs; and CPC revenues, total impressions, average cost-per-click and click-through rates for MSEs. Overall, OTAs/MSE use has grown substantially with the collective site traffic of several leading platforms growing at c.25-30% per annum from 2016 to 2019. Travel restrictions during the pandemic have naturally resulted in a substantial decline for 2020 of c.30-40% for accommodation bookings, with larger hits to international travel and domestic flights. Using the same metrics, global platforms account for a much higher share of total online platform accommodation bookings relative to domestic platforms. The favoured use of global platforms by international travellers coupled with a rapidly growing share of domestic travellers has placed them in this position. Some global platforms clearly have sought to actively grow their domestic customer base. Google is a relative newcomer as a MSEs which has grown its travel offering significantly to include hotels, things to do, flights and holiday rentals.

[5] For instance, domestic flight platform Travelstart now incorporates SafariNow and Tripco's LekkeSlaap platform now includes lekkeVlieg. Global platforms, Booking.com and Expedia sell accommodation, flights, car rentals and experiences on the same platform.

[6] For instance, Booking Holding includes MSEs Kayak.com, Cheap Flights, HotelsCombined and Rentalcars along with other OTA's Agoda and Priceline . Meanwhile Expedia includes MSE Trivago and a portfolio of OTAs such as Expedia, za.hotels.com and Travelocity targeting travel accommodation such as a hotels as well as Vrbo which focuses on alternative accommodation.

31. In terms of the mix of bookings and leads by travel category, there is more platform activity and margins in respect of accommodation and experiences rather than flights or car rentals for most platform ecosystems. This is likely because there are fewer discoverability issues for consumers in flights due to the limited number of airline options where consumers may go direct, all with convenient online booking options and car rental add-ons. Furthermore, flights are easily compared on price which may make it easier to compare and book direct with the airline as OTAs charge an additional service fee. In contrast, there are a substantial number of differentiated accommodation providers unknown to consumers and so OTAs/MSEs are more useful to consumers seeking to conveniently find alternative options. The higher margins reflect that they are also more important to accommodation providers in providing discoverability and directing consumer bookings.

32. It does not appear that the own booking portals by accommodation providers offer a constraint on OTAs, given that they simply cannot replicate an OTA's SEM and MSE spend to drive access to customers. As such, these platforms appear to have become unavoidable partners to drive enough customers to their establishments, creating a form of dependency on some platforms for customer traffic. For flights and car rentals the position is less clear, given that consumers are more likely to be aware of the finite set of options, and the stronger link between flight bookings and car rental.

Questions:

15. To what extent do MSEs compete or complement OTAs in the online travel ecosystem, and can MSEs evolve to become OTAs?
16. To what extent do online travel platforms complement or substitute other booking channels for accommodation providers, and does this differ for flights and car rental?
17. Does the existence of other booking channels impact on the commissions charged and conditions of use by online travel platforms to business users on the platform?
18. To what extent do business users fund discounts on bundles sold and to what extent do they exercise their initiative and/or discretion in approving each discount given?

Platform competition

33. Within travel and accommodation platforms, it seems that consumers do multi-home albeit that many platforms have identified a sizeable number of repeat customers. Multihoming appears to have driven high marketing spend for consumer attention and the development of loyalty programmes. It also appears that platforms incentivise consumers to make app-based bookings as opposed to web-based bookings.[7]

34. Marketing is a key driver of platform competition for traveller's attention to drive site traffic. OTAs/MSEs marketing spend is typically between 30% to 50% of total revenue but can be higher than that especially if a platform is trying to drive growth. Google Ads and MSEs constitute a substantial portion of total marketing spend for OTAs. Platforms may also engage in search engine optimisation (SEOs) for favourable organic search results. Collectively Google Ads and SEO constitute search engine marketing (SEM). An issue raised by smaller platforms is almost all platforms use SEM and that this may create a barrier to expansion in mainstream tourist destinations, as domestic and smaller platforms cannot outbid larger and typically global platforms. SEM spend typically reinforces favourable paid-for ranking and organic search results which in turn drives traffic to the platform, thereby reinforcing the position of larger platforms. Furthermore, SEO efforts may also be undermined as search engines frequently change their search algorithms. Domestic and smaller platforms would appear to find a niche or alternative online routes to market other than SEM to compete, and face barriers to expansion into regional and international markets.

35. Google Travel has evolved with the inclusion of hotels, flights, things to do and vacation rentals. Google Travel operates as an MSE alongside the organic search. In this manner it is like Google Shopping, which raises then the same questions as to whether Google search may provide preferential treatment to Google Travel. For instance, the Google Travel link occupies a significant portion of the first page search results of a given categorical travel search. From a data perspective, Google also has access to Google Search, Google Maps and numerous reviews on its platform which it can use to develop and support its Travel product.

36. The major global platforms all have loyalty schemes designed to drive repeat business and lock in travellers to the platform. These include discounts for first time use, growing discounts

[7] For instance, consumers earn double points when booking on the Expedia app.

after repeated use and free nights, room upgrades, redeemable points and optional items (e.g. breakfast, wifi). It is not yet clear to the Inquiry how these are funded as it seems that in some cases this discount is provided by the platform, but in other cases it may be that the platform requires discounts from the accommodation provider to support promotions. Discounts for a bundled package of travel services is also common.

37. Business users multi-home aided by channel management software that manages bookings across multiple channels and low once-off or no listing/onboarding costs. There are only a few identified instances of possible exclusive tie-ups on any scale.

38. Price parity provisions are common across both global and local platforms. Price parity clauses for South Africa are broad and require business users to price no lower in alternative platforms and their own sales channel. Narrower parity that only applies to listings on other platforms or the removal of price parity clauses altogether appear to only occur where a country has regulated against their use. The price parity clauses tend to be supported by enforcement mechanisms such as potential de-listing and monitored by price match or guarantee "benefits" marketed to consumers which may aid discoverability of contraventions by the platform. Parity clauses may also extend beyond price to room availability. Such clauses have been the subject of competition interventions in other jurisdictions and will need to be assessed in the South African context by the Inquiry.

39. It appears that most established platforms had positive operating margins pre-Covid except where they may be chasing growth through a loss leading approach due to higher marketing spend, online platform improvements and developing listings. The Covid pandemic has however pushed many into a loss-making position which could have longer term impacts on platform competition if it pushes some platforms out of business.

40. At this stage the Inquiry has little insight into the importance of the ecosystem of platforms for competition as well as practices such as cross-referrals (bundling), self-preferencing by MSEs with OTAs or the benefits of consumer and business user data sharing. This includes the dual role of Google as an important means of platform marketing through Google Ads and the development of its own travel MSE ecosystem. Similarly, the Inquiry has little understanding of the allocation of room availability to OTAs, contractual requirements to sell accommodation

at a discount (e.g. fenced bookings), OTA initiated promotions of accommodation run independently of the respective accommodation provider, and the effect of promotions across different platforms by multi-homing business users.

Questions:

19. To what extent does the marketing spend of established platforms, and the importance of Google Ads in such spend, impact on entry and expansion by domestic platforms?
20. What is the return on investment for OTAs SEM spend, and does this differ between OTAs of different sizes? Do OTAs accept negative returns on SEM spend in order to expand into a market?
21. What is the impact of price parity clauses on price competition amongst platforms and price levels in South Africa? Are these clauses objectively necessary to achieve certain efficiencies and what has been the effect of removing them in other countries?
22. How does an ecosystem of OTAs and MSEs under a common holding company impact on platform competition and consumer choice?
23. How important are loyalty schemes in driving repeat business and how are these schemes funded?
24. Whilst business users may multi-home, how do they spread promotional activity and discounts across the different platforms they use or investments in improving platform performance?

Business user competition and treatment (incl. SMEs)

41. A notable feature of travel and accommodation platforms is the substantial role of sponsored ranking in the provision of customer search results. A common practice is to offer a ranking boost in exchange for a higher commission fee. In some instances, this is offered to only the better performing accommodation providers (i.e. providers that receive the most bookings, high customer ratings and positive customer reviews) but it is still in exchange for a higher commission. The higher commission indicates that there is a benefit to the ranking boost in terms of more page views (impressions), click-through rates and bookings, a fact confirmed by the promotional material of some platforms.

42. Sponsored ranking has been the subject of interventions by the UK's Competition and Markets Authority (CMA) and the European Commission based on the distortion it may create for

consumer choices. A transparency solution of labelling results that are the subject of sponsored ranking as ‘Ads’ to inform consumers was applied to some of the global platforms and appears to have been applied universally, including South Africa. This is not the case with all platforms though and domestic platforms are not subject to this requirement. The labelling of ‘preferred provider’ also does not provide consumers with an understanding that those listings are also sponsored.

43. Outside of the sponsored element to search rankings, the platforms typically use a range of factors linked to the strength of the match to the search term as a first filter, and then factors around accommodation provider performance (such as ratings, conversion rate of views to bookings, price accuracy, pictures, etc) and customisations for the specific consumer based on their past searches and bookings (e.g., price category, accommodation type, etc). Several platforms also offer new listing ranking boosts in order to aid discoverability prior to recording any reviews.

44. At this stage the Inquiry has limited information on how participation in promotions and discounts for loyalty programmes or packages impacts on search ranking, discoverability, and the number of bookings. There is also limited insight into whether accommodation providers are penalised for refusing to participate in promotions or discounts and/or not adhering to contractual terms such as pricing parity. It is clear on many platforms that promotions and discounted properties are ranked amongst the top search results (with paid-for ads) and seems to be a strategy to draw traffic to the platform or convert consumer views to bookings. Pressure on accommodation providers may occur in order to reinforce consumer perception of certain platforms having better promotions than others.

45. A review of the terms and conditions contained in the business user contracts indicates that there are several conditions that may be unfair. These include the timing of payments made by the platform to the accommodation provider (e.g. booking fees) relative to payments going the other way (e.g. accommodation provider payments to platform). In addition, some platforms require a payment of a sizeable deposit with the platform by accommodation providers to secure the commission payments. The accommodation provider is also subject to stringent rules in the case of over-bookings and cancellations by travellers and bear the cost of these.

46. The Inquiry is interested to understand the extent of transformation of the tourism industry, and particularly the share of HDP accommodation and travel experience providers. The Inquiry is also interested in the experience of SME and HDP users of OTAs. The Inquiry observes that almost all platforms lack any specific programmes for SMEs or HDP travel and tourism operators in South Africa. The Inquiry is aware of an Airbnb initiative to support accommodation and experiences in rural and under-developed communities in South Africa.

Questions:

25. Why is sponsored search such a large feature of travel and accommodation platforms and what impact does this have on consumer choice and discoverability of smaller accommodation providers?
26. What has been the impact of transparency remedies imposed by the CMA and EC on consumer choice and the efficacy of sponsored ranking?
27. To what extent do business users need to invest in a platform through promotions, discounts and sponsored ranking in order to drive bookings from that platform? What is the rationale for making promotions and discounts amongst the top search results, and does this incentivise business users to invest in these promotions?
28. In assessing the fairness of certain risks lying with accommodation providers through terms and conditions, which risks are controlled by platforms and which by business users?
29. What is the extent of HDP tourism sector businesses use of platforms and are there viable means to promote their participation on these platforms?

4. DELIVERY PLATFORMS

Platform landscape and trends

47. Online intermediation delivery platform operations can be broadly delineated between food delivery from restaurants and other store delivery categories including grocery, alcohol and pharmacy. Restaurant food delivery is the largest component by some distance currently. Established restaurant delivery platforms have used this as a base to expand into the other store delivery categories on their existing platforms, and there are specialist delivery platforms focused only on the other store delivery categories with no restaurant offer. There seems to

be fewer incidents of other store delivery category platforms moving into restaurant delivery than the reverse.

48. The covid pandemic has seen a large increase in online restaurant delivery orders by consumers, especially in the higher levels of lockdown where restaurants were prevented from doing sit down meals or only at half capacity, and consumers were more reticent to go out. Despite the massive growth in restaurant food delivery, the preliminary evidence suggests there has not been a material change in the number of competitors or market structure. Mr D and Uber Eats still account for most of the restaurant delivery through online platforms when measured by number of orders and food value, with both realising material growth over the period. In fact, some recent entrants have even closed despite market growth and others have not expanded their reach materially during the pandemic. The view of certain delivery platforms is that they do not compete with own delivery where it exists but rather seek to provide incremental customers and sales to restaurants. This view is disputed by some platforms but is consistent with some restaurants having a delivery service and still using delivery platforms. It also appears that most independent restaurants do not have their own delivery service and it does not appear that recent delivery growth has changed that situation materially.

49. In respect of grocery and other delivery categories, the pandemic has seen a growing number of consumers opting for store delivery to reduce social contact. This has seen the major national grocery chains all invest in improved online delivery systems, frequently through acquiring an existing online grocery platform and then rebranding it (e.g. Pick n Pay and bottles). However, these are vertically integrated platforms that do not provide services to other retailers nor do the national chains offer their products on other delivery platforms (with some limited exceptions). The implication is that store delivery platforms limit themselves to independents and smaller chains and these platforms remain the only delivery options for those stores and chains. It also seems that independent stores do not have own delivery options developed except some pharmacies (for prescriptions) and liquor stores (for bulk orders and events). The grocery store category is a higher cost one relative to restaurant delivery due to the need for instore shoppers or staff to collate the order for delivery.[8] It appears that most retailers offer the service to cater for those customers that prefer online

[8] The model has not evolved to centralised warehouse operations, nor can it for independent grocery stores.

delivery but it remains a small part of their overall business (as it does for delivery platforms more broadly). In pharmacy, the expansion of delivery has been for front-shop on platforms.

Questions:

30. How does the market landscape for delivery platforms differ between restaurant delivery and other store categories, and how does this impact on market development and the issues covered in the scope of the inquiry?
31. Has the market growth from the pandemic resulted in a material increase in own delivery capabilities by a) national fast food chains, b) independent restaurants and c) independent grocery and smaller chain stores, and if not, why?
32. Does own delivery complement or substitute for online platform delivery? Does the existence of own delivery impact on the commissions charged and conditions of use of online delivery platforms to business users on the platform?
33. Does the existence of own online delivery by the national grocery retailers impact on competition amongst delivery platforms servicing independent stores and the commissions and terms to those stores?

Platform competition

50. In the restaurant delivery category, competition between platforms takes place to both sign up restaurants and to draw in consumers to place orders. There are feedback effects within the category as the number of restaurants is important to consumers given that variety and convenience are amongst the important factors for consumers making use of delivery platforms, and customer reach may influence whether restaurants sign up on a platform. In addition, good platform technology and an effective driver delivery system are important for consumers and repeat use on the platform.

51. On the restaurant side, explicit exclusivity clauses with restaurants do not appear to be a prominent feature of these delivery markets, with only a few instances identified and typically of limited duration (albeit with some national chains). Whilst restaurants may multi-home as a result, it appears that there is resistance to listing on many available platforms. It is not entirely clear yet as to the reasons for such resistance. Resistance may stem from paying multiple monthly fixed costs of using platforms, the difficulties in integrating multiple distribution channels at the restaurant, or incentives to drive more business through a channel such as a

reward with lower commission rates or promotions. Resistance to multi-homing is seen to inhibit entry and expansion, especially where the restaurants are popular. For instance, it is evident that national fast food chains feature prominently in customer orders and smaller domestic delivery platforms have indicated that these chains are not willing to contract with them.

52. On the consumer side, there is also the ability to multi-home. As a result, marketing expenditure is a prominent cost to drive consumers to their platform. Marketing takes the form of above the line (ATL) brand marketing and awareness, search advertising (Google Adwords and SEO) and most prominently, targeted new and active eater promotions direct to the consumer through the app or email (e.g. meal price reductions, free spend, free delivery). Many of the promotions seem to be sponsored by the platform itself, but platforms also incentivise restaurants to promote their platform and offer promotions through the platform. The incentive may be in the form of reduced commissions or enhanced orders through more prominent display positions. Currently it is not clear whether the commitment to promotions on one platform may limit the extent of promotions undertaken by restaurants on other platforms, resulting in the other platforms having to fund promotions themselves to a greater extent. Smaller platforms have indicated that the extent of eater promotions, by large platforms particularly, are unsustainable without deep capital backing to support losses and pose a substantial barrier to entry and expansion. Excessive promotions may be why food delivery platforms are loss-making.

53. It appears that historically price parity clauses were included in contracts requiring that restaurants would not make menu prices on a particular platform higher than the restaurant price or sold through other food delivery apps. The Inquiry understands that this is no longer the case for recently concluded contracts, but is interested in what the restaurants actual understanding and practice is in respect of historically concluded contracts as it is unclear if restaurants are necessarily aware of the change or would price differently even if aware. If there is uniform pricing then it appears that eater promotions are the only means to compete on price rather than through commission levels, which may encourage excessive promotions.

54. These market features may explain why smaller platforms have not been able to take advantage of the market growth (including platforms starting in grocery delivery), and why a

number of these platforms have exited in recent years. They may also distinguish restaurant delivery from other store categories.

55. In contrast, the other store category delivery business model appears to be less focused on customer promotions and rather offering the consumer convenience and the recovery of costs through delivery charges. There may be some initial subsidisation to promote platform use and grow scale which may ultimately reduce delivery costs. The established platforms with scale from the restaurant delivery business may have an advantage over smaller platforms lacking the restaurant aspect. With the major national grocery chains undertaking their own delivery, there may be less scope for larger platforms to benefit from a tie-up to the disadvantage of newer platforms as may be the case in restaurant delivery.

Questions:

34. What are the reasons why restaurants are reticent to list on multiple platforms, and especially the national fast food chains? Is this a product of incentives or practical difficulties, and if the latter, are there ways to promote greater levels of multi-homing?
35. Is the scale of eater promotions a necessary part of the business model or does it simply create a short-term barrier to entry and expansion? Do incentives for promotions on one platform by restaurants result in less promotion on other platforms?
36. What is the restaurant understanding of price parity clauses in their contracts and how do restaurants price relative to their restaurant menu and across delivery platforms? Does this behaviour limit the scope for commission-based competition between delivery platforms?
37. Does the business model for other store category delivery platforms provide greater scope for many competing platforms to coexist?

Business user competition and treatment (incl. SMEs)

56. A notable feature of restaurant delivery platforms is the differentiation in the commissions charged to different business user segments, namely international chains, national chains and independent restaurants. Independent restaurants are typically charged substantially higher commissions relative to the fast food chains. Platforms cite the order volumes that these chains bring as informing this differential treatment, as well as reduced costs of loading the

listings. This differentiation is fairly unique to delivery platforms with differentiation uncommon in most other platform types even where larger business users may generate more transaction volumes. The exception is online classifieds. In some platform categories SMEs are charged lower commissions.

57. The Inquiry does need to get a good understanding of the reason for such differentiation, the essentiality of such differentiation for the business model and the impact this has on the participation of SMEs and HDP restaurants that are subject to higher commissions. Higher commission fees may impact on participation through either lower order volumes (from higher menu prices) or low margins (from absorbing higher commissions) or may have a limited impact. Higher commission fees may also be used to support lower commission fees charged to large restaurant chains, and in this way impact on delivery platform competition.

58. As with many other platform types, delivery platforms do provide scope for influencing the search rankings and discoverability of a restaurant on the app or website. Search is typically restricted to a delivery radius around the customer location as a first filter. Thereafter the search will be impacted by delivery factors (distance, time and fees), contextual factors (cuisine, time of day, availability), restaurant performance (ratings, order fulfilment, etc), pricing and known customer preferences (order history). However, display prominence will also be impacted by promotional offers, paid advertising placement and premium ranking position purchases (pay for position on the results list). Whilst promotions are typically labelled to draw in consumers, there is no consistency in the practice of labelling sponsored rankings across different platforms. At this stage the Inquiry has limited information on the participation in such promotional programmes across restaurant types and the impact on discoverability and order placement. The Inquiry is interested to understand whether independent restaurants do tap into these opportunities or whether they are more frequently used by restaurant chains, and the efficacy for independent restaurants.

59. A review of the terms and conditions contained in the business user contracts indicates that there are some areas where the practice needs to be understood better to assess the fairness. This includes an understanding of which party may have more control over the risk identified in the case of wrong orders or food returns.

60. No participants appear to have any specific programmes to support independent or HDP restaurants, and in fact the practice seems to be the opposite, namely subjecting them to worse terms than larger restaurant chains.

Questions:

38. Is the differentiation in commission fees justified by differences in costs, including the extent of differentiation observed in this market, and is it essential for the business model? Why is this the case in food delivery and not other intermediation platforms?
39. What impact does higher commission rates have on the participation of independent restaurants?
40. Does differential commissions impact on chain restaurant platform choice and platform competition?
41. Which restaurants make use of sponsored rankings and does the pattern of use negatively impact on independent restaurants? Do consumers get negatively impacted by sponsored rankings and paid advertisements, in terms of choice or pricing in the case of restaurant delivery?
42. Is the practice around implementing any terms and conditions done in a manner that is unfair in application?
43. Can and should food delivery platforms be doing more to support participation by independent SME and HDP restaurants, and if so, what?

5. ONLINE CLASSIFIEDS

Platform landscape and trends

61. Online classifieds deal in transaction leads rather than sales, and typically specialise on a particular product category. Online classifieds appear to have built up most prominence for large once-off purchases where consumers use the Internet to research options before going to inspect and make a purchase decision. The Inquiry has currently identified automotive and property as two areas where classified platforms hold an important role in providing leads for the businesses involved in those markets (dealerships and estate agents). The Inquiry would like to understand if there are other classified platforms of importance or growing importance within a market.

62. Classified platforms seek to aggregate all or most available sellers in a particular category, and then offer consumers the convenience of searching and comparing across those sellers on a single platform. The platforms are monetised through the business user side of the platform with listing and other fees.

a. The value proposition to consumers is the convenience of being able to search and compare all sellers on a single platform using a variety of search filters and being connected directly to the businesses for further inquiries. This is vastly superior to searching the individual web pages of each individual seller which is more time consuming and difficult to engage in easy comparisons, even if the information is technically available.

b. For business users, the classifieds platforms have become an important source of leads for sales given their considerable consumer reach relative to what a business user could generate on their own website. The fact that businesses pay to list whilst maintaining their own web presence is indicative that the classified leads cannot be substituted by own web site leads or otherwise there would be little incentive to pay. Individual businesses are also unable to replicate the marketing spend to draw the consumers directly to their web pages in competition with the classified platforms, nor would that spend be cost-effective given the more limited stock relative to the platform.

c. The classified platforms also sell advertising on their platforms to third party businesses that provide complementary products in the category as the platform can target relevant consumers effectively. For instance, this may include firms offering finance and insurance for property or automotive.

63. Given the importance of online classifieds in consumer research and as a unique source of leads, the Inquiry is of the preliminary view that own web pages are unlikely to place a constraint on online classified platforms. Case precedent would also suggest a distinction. Some classified platforms have indicated that some businesses or individual sellers may also advertise on other platforms such as Facebook Marketplace or C2C platforms such as OLX and Gumtree. However, the Inquiry is yet to see any evidence that these alternatives provide the same consumer benefit of comprehensive search and comparison within a category and therefore substitute for the role of online classified platforms.

64. In measuring the importance of individual platforms, it appears that whilst site traffic is one indicator that is compared, what matters most is the volume and quality of sales leads provided by the platform. Sales leads will flow from the level of consumer engagement with the platform and the number of unique users. Ultimately, market position is also reflected in the price that businesses pay to list on a platform relative to other platforms, so listing price or total revenue is another metric of importance.

65. Within property, the evidence gathered indicates that Property24 and Private Property are the two most important platforms providing leads in the category. Within automotive, Autotrader and Cars.co.za are the two most important platforms. There exist several other classified platforms which offer business users the opportunity to list for free or for a substantially lesser fee in each of these categories.

Questions:

44. What product categories other than automotive and property lend themselves to high levels of consumer use of online classifieds to drive sales leads, or will do so in the near future?
45. Do other channels constrain or complement online classified platforms, and if so, which other channels are most important?
46. Are sales leads and turnover the best metrics of platform importance, or should all metrics be considered?

Platform competition

66. Consumers can multi-home across classified platforms. For this reason, marketing is a prominent cost item for classifieds to draw in consumer traffic. The marketing spend is typically on Google Ads (SEM) and then ATL brand advertising. Promoting the use of classified app downloads over time would appear to be another means of directing consumer traffic. Established platforms appear to have an advantage in marketing spend given their existing position can fund marketing from existing profits whilst entrants may need to incur losses to match the marketing spend. The other prominent cost item is staffing, used for selling to and

managing the large number of individual business users on the platform. A final major cost item relates to the technology of the platform.

67. Simply generating traffic does not necessarily guarantee success as the platform needs to convert that traffic to leads. This suggests platform engagement through the ease of customer interface and range of listings are important too. Whilst consumers may multi-home across platforms, they may have a preferred platform or two, and simply check other platforms to test if they have additional options not listed on their primary platform choice. This type of behaviour may explain higher levels of site traffic but limited engagement by consumers on smaller platforms.

68. Business users in the category also multi-home as exclusivity is not a feature of online classified platforms. However, business users still need to consider the return to any marketing spend they make on listings across different classified platforms. New entrants may be able to initially get listings by providing the service free to business users. However, these entrants ultimately need to monetise the listings to generate revenue to be sustainable. Revenue may also be required to expand through consumer marketing and better platform technology if the level of shareholder funding is limited and cannot support large losses up front. It appears that business users are likely to list on one or both of the leading platforms given their importance in sourcing leads, which may reduce the amount of marketing budget left for spending on other platforms. In the case of property classifieds, multi-year subscription agreements may lock in business users into this pattern of contracting. The Inquiry also understands that some classified platforms have joint listing software whereby listings uploaded to one of the platforms can be added to the other at an additional cost. This may also lock in the business users into this pattern of contracting with the two leading platforms. The existing leadership position, listing fees and contracting may therefore pose a barrier to the expansion of rival platforms.

69. Online classified platforms generate considerable data from consumer search patterns in real time, and increasingly require or incentivise the provision of detailed data (incl. visual data) from business users for their listings (e.g. through making data quality a factor in ranking or simply requiring it for listings). These collectively provide the platforms with considerable amounts of data that can be used to generate market insights for business users in real time. The larger platforms have started selling these data insights to the business users as a new

revenue stream. Larger platforms may be able to generate more useful data insights given higher consumer traffic and more listings.

70. Another striking feature of online classifieds is the level of profitability of the leading platforms. It appears that once a classified platform has become important or a 'must have' for business users in its category then it is able to raise standard listing fees substantially above the smaller platforms and can unlock numerous other revenue streams. Listing fees are typically multiple times higher than smaller platforms, which might just reflect the additional leads value provided or their 'must have' status. It is also evident that on leading platforms, a sizeable share of total revenue may be generated from sponsored ranking and featured listings, the sale of advertising to third party complementary businesses and the sale of data analytics to business users on the platform. This suggests visibility on those platforms for business users is likely to be important for a share of sales leads. The unlocking of these additional revenue streams may reinforce the leadership position if the platform invests some of this in technology and marketing.

Questions:

47. Does the marketing spend of leading platforms reduce visibility and discoverability of smaller platforms through channels such as Google Ads?
48. Does the listing spend on leading platforms restrict business user willingness to spend on challenger platforms?
49. Does the existence of multi-year subscription contracts hinder business users from contracting with smaller platforms?
50. Is the capability to create useful market insights lie exclusively with larger platforms and does this incentivise business users to list on those platforms?
51. Are there any smaller platforms experiencing rapid expansion to the point they may challenge the leading platforms, or has the market tipped in favour of the leading platforms?

Business user competition and treatment (incl. SMEs)

71. Currently it would seem that online classified platforms do not necessarily compete with business users on the platform in terms of listings. The one exception the Inquiry is aware of is Private Property which had its roots in estate agencies collectively setting up the portal even

though a majority shareholding was subsequently sold. This raises the question as to whether that stake does provide any potential conflicts of interest for the minority shareholders.

72. In both the automotive and property sectors there exist larger dealership and agency groups with hundreds or thousands of listings competing against individual dealers or agencies with a small number of listings. It appears common amongst online classifieds to provide volume discounts on listing fees as the monthly subscription fee is based on different volume categories. The Inquiry observes that the difference per lead or listing can be substantial, with the smallest category paying multiple times more than the largest category on a per lead or listing basis. Furthermore, it appears that some larger groups are also able to negotiate individualised discounts for their group which may reduce their costs per lead even further or reduce the costs of sponsored ranking. The Inquiry is interested to understand the impact of this differential price on participation of SMEs and HDP dealerships and estate agents given the higher cost per lead that it results in.

73. Online classified platforms have increasingly expanded the use of sponsored ranking and featured listings on their platforms and these now account for a material share of the revenue generated. The scope for offering preferential positioning arises from the sheer volume of listings on the platform which drives certain business users willing to pay for any means to stand out in consumer searches. It would seem that sponsored search and featured listings do drive more traffic and leads otherwise they would not be used, and the revenue contribution similarly indicates their sizeable value relative to a basic listing. The Inquiry is interested to understand the extent of additional leads created by these tools, and their impact on consumer choice as well as the participation of SMEs and HDP business users.

74. There appears to be some movement within online classifieds to promote the participation of SMEs and HDP business users, albeit that it is limited to a few platforms and extremely limited in size currently. For instance, Property24 provides free branded and premium listings, along with banner advertising, to a limited extent to qualifying HDP estate agencies and Cars.co.za provides a flexi package to SME dealerships on a pay as you go model for those with low stock numbers. However, given the differential treatment on other aspects of platform access such as listing fees, it is not apparent that these necessarily offer a net benefit to SMEs and HDP users.

Questions:

52. Does the shareholding of some business users in a leading online platform create potential for conflicts of interest, preferential treatment or the flow of information of strategic value?
53. What is the extent of participation of SME and HDP business users within the auto dealership and estate agency business more broadly, and on online classified platforms more specifically?
54. Does the provision of volume discounts around listings impact on the participation of SME and HDP business users?
55. How effective is sponsored ranking and featured listing in improving customer visibility and the volume of page views and leads?
56. What is the extent of sponsored ranking and featured listing use by SME and HDP business users relative to large business users? Does any difference in use impact on participation by SMEs and HDP business users?
57. Should classified platforms be doing more to promote SME and HDP business user development, and if so, how?

6. APP STORES

Platform landscape and trends

75. Application stores (or app stores[9]) have arisen as part of different device ecosystems, serving to enhance the value of the device to consumers through offering a wide range of applications. The wide range of apps is in turn achieved through providing development tools to third party app developers and businesses, along with a marketplace to reach the consumers on the ecosystem. The size of the customer base is what ultimately drives app developer efforts. Developers of revenue generating apps are drawn to the potential sales of a large customer base, whereas traditional businesses developing free apps typically are seeking to provide their customers with services through these channels (e.g. banks).

76. Specific app stores tend to be associated with specific ecosystems and their size is related to the level of adoption of the devices within that ecosystem. The most prominent ecosystems

[9] The term 'app stores' is used to cover all application stores and is not in reference to the Apple App Store only.

are in mobile devices where Apple App Store and Google Play Store are the leading platforms in South Africa based on site traffic, active users and annual transactions. Google is the largest due to the Android Operating System (OS) being prominent in most smartphones in the country. Apple devices (phone and tablets) target a higher income bracket and so app transaction share is higher than the share of devices, moreover, from a local app developer perspective, the global customer base also matters, and Apple and Google are the primary two device ecosystems globally as well. Outside of mobile devices, other ecosystems exist around gaming consoles (with Microsoft X-Box and Sony Playstation being the largest in South Africa), web services and PC operating systems.

77. In the mobile area, device manufacturers such as Huawei and Samsung that have used Android OS and Google Play on their devices historically, are starting to develop their own OSs and offering their own app store on devices loaded with their OS. However, this does not appear to apply to their entire device range and nor does it apply to their installed base of previous smartphones sold into South Africa. As a result, their share of actual site visits, active users and transactions is currently relatively small in South Africa. They also have only a fraction of the apps that exist on the two largest device ecosystems currently.

Questions:

58. How will the shift by Huawei and Samsung to their own OS and app stores impact on the share of market moving forward in South Africa?
59. Are there any other market developments which may alter the landscape for apps in South Africa or globally?

Platform competition

78. The app stores form part of the overall offering of different device ecosystems and the range of apps along with their quality is likely to contribute to the attractiveness of the ecosystem. However, the sheer volume of apps now available on the largest ecosystems and the fact that many developers support all major ecosystems seems to suggest that this is no longer a major differentiator amongst the major ecosystems (e.g Apple and Google on mobile devices and X-Box/Playstation for gaming consoles). However, the range and quality of apps are more likely to be relevant to the success of new ecosystems (e.g. Huawei and Samsung own OS

smartphones) where the number of apps available on their own stores is a fraction of those of the major app stores.

79. Once a consumer has selected the ecosystem, there is typically no competition for the app store as a source of apps, including transacting for paid-for apps. This is most evident for Apple iOS, Huawei's range of own OS phones and gaming platforms. For Android which is an open OS, the Google Play store has typically been the default app store on Android devices, and indeed the only means available for loading apps onto mobile devices. Litigation in the US alleges that Google has used payments to device manufacturers to retain Google Play as the default and revenue-share payments to device manufacturers and telcos to disincentivise the installation of alternative Android app stores. Whilst Google claims that consumers can side-load apps and other app stores can theoretically be used on the devices, the Inquiry has yet to see evidence this is understood by consumers and the practice is widespread. In fact, the Inquiry has learnt that side-loading may even be discouraged due to claims of security risks. As such, it appears that Google Play is effectively in a similar position to other closed ecosystems where its Android OS is used by mobile device manufacturers. This may be reinforced by the introduction of a loyalty programme on Google Play (Play Points).

80. The post-device selection monopoly on different OS may also constrain consumers from switching device ecosystems as the app purchases may not be portable to another OS ecosystem. As a result, the practice of app store monopolies may also impact on consumer switching and soften overall ecosystem competition.

81. The post-purchase device monopoly on app stores as it affects app developers does not appear to be disciplined by competition for the ecosystem given their critical mass of developers and apps that produce for all of the largest ecosystems. For instance, both Apple and Google charge a common commission fee of 30% on all paid for apps. For the smaller challenger ecosystem, it seems that they need to discount commission fees to draw in more app developers onto their ecosystems in order to boost the number of apps on the ecosystem. Whilst the largest mobile app stores have reduced their commission for apps yielding under $1m annually to 15%, this seems to have been in response to public pressure rather than competition. It is also interesting that the same commission level was reached by both large mobile app stores, and the Inquiry is interested as to the reasons for this.

82. The common commission levels also seem to have resulted in common pricing to consumers for the same apps across the different app stores and ecosystem. It seems app developers in other jurisdictions have sought to discount their price where consumers can download and transact over their own web site at lower cost to the app developer. This evidence suggests that competition on app price is feasible if commission fees were to vary, and that the lack of competition for app stores post-device selection may enable monopoly pricing of commission fees. The common commissions may also prevent app pricing becoming a factor in ecosystem competition for device selection in the first place.

Questions:

60. Does competition for the ecosystem constrain commission fees charged to paid app developers on the app stores of these ecosystems for both large and new ecosystems?
61. What is the reason for common commission fees and practices across the different large ecosystems?
62. Do common commission fees reduce ecosystem competition over the pricing of apps?
63. Would lower commission fees result in lower consumer prices for apps or just a greater share of revenue for app developers?
64. Does the lack of app store competition reduce consumer switching between different device ecosystems?

Business user competition and treatment (incl. SMEs)

83. As with most platforms, the terms and conditions are standardised to deal with millions of app developers globally. Platforms reserve the right to also change these terms and conditions at times unilaterally. App stores provide app developers with development tools to assist them in developing apps for their ecosystem. As part of the toolkit, app stores provide developers with access to APIs (Application Programming Interface) which allow the app to tap into different functions of the device. The Inquiry understands that some of the larger developers may get access to test APIs before others to explore their use and application. Granting access to different APIs typically needs to be motivated for by the app developers in relation to each app, and some app developers appear to get better access than others. It is not clear as yet whether this impacts on South African app developers.

84. The large mobile app stores host millions of apps across a range of different categories, with even smaller new app stores hosting over 100,000 apps. The sheer volume of app listings means that discoverability is critically important if an app is to gain traction amongst consumers. App stores also have an incentive to assist consumers in finding apps that they will find useful. App stores offer a search function but also curate the content in different ways to aid consumer discovery. Typical curation would include for each category of apps (e.g. music, medical, reference, shopping, etc) the top paid and free apps, current popular apps, daily top picks, featured apps and picks for a range of relevant sub-categories.

85. The general app search will typically seek to identify specific app categories or app names that more closely match the search terms and return a list. The ranking in the list is influenced by user experience (downloads, ratings level and number, etc) and app quality (technical performance, uninstall rates, etc). App stores also provide the ability for apps developers to advertise their app to get more visibility. These ads are typically labelled and appear at the top of search results or are featured on certain search pages or category pages. At this stage the Inquiry does not have a strong sense of how important ads are becoming on app stores for app discoverability. App stores do also provide information to paid app developers on app performance against peers and means to improve downloads and monetisation. The Inquiry is interested to understand the challenges for South African app developers in gaining visibility and consumer traction on the app stores.

86. In terms of fees, app stores have typically charged a listing or annual fee and then a 30% commission on paid transactions, namely paid apps (incl. in-app payments). Non-paid apps (incl. those generating advertising or used to sell physical goods) are hosted for no commission as the stores do not process any payments directly. No charges for non-paid apps appear to be based on the fact that the app provides benefits to the ecosystem and the app developer does not necessarily make revenue to compensate the app store. The 30% fee has been the focus of litigation which has resulted in both Apple and Google reducing the fees for app developers to 15% for the first $1m earned annually. This is apparently designed to assist SME developers. The paid apps also provide benefit to the ecosystem even if they generate revenues and value for the app developer, and so the split in value is what seems

to matter. The Inquiry is interested in the impact of this fee reduction for South African app developers.

87. App stores themselves offer apps in competition to third party apps which may benefit from default installations and preferred ranking positions or features on the app stores. For instance, the own apps tend not to be open for consumer ratings and may appear at the top of search lists given the lack of rating. The own apps may also not be subject to the 30% commission for paid apps. Another area where self-preferencing might occur is in relation to API access and the use of platform data on competing apps in the development of own apps. The Inquiry is interested to understand whether this conduct has an impact on South African app developers and South African consumers.

88. Overall the number of app developers, and particularly paid app developers, appears relatively small for South Africa. Of the millions of apps on these app stores, it seems that there are only c.4500 South African apps, and only c.400 paid app developers in South Africa. Relative to the volume of traffic and transactions generated by these stores, South Africa appears to be under-represented at the app developer level. The largest apps domestically tend to be free apps to provide customer portals to established businesses (e.g. DStv, banks, etc).

89. It appears that most app store parent companies provide support programmes for app developers of a generic nature and then in some regions provide more focused funding for app developer academies. For instance, Apple announced in 2021 an app academy and $100m support for historically black colleges in the US, including support for US venture capital firms that fund minority-owned businesses. It also has academies in India, Brazil, Indonesia and Italy. It is of interest to the Inquiry that there appear to be no academies in Africa nor any programmes to fund and support app developers on the continent. This is even though Africa provides a substantial market for these device ecosystems which does not seem to be matched by local investment in sharing in the value of the ecosystem. The Inquiry understands that Google offers a programme specific to African tech entrepreneurs but the extent of funding relative to other regions and focus on apps needs to be determined.

Questions:

65. How important are ads and features for gaining visibility for an app, and can small apps get visibility through ads or are they outspent by larger app developers?
66. Do any South African apps compete with the app store ecosystem own apps? If so, what impact does any self-preferencing of app store apps have on South African app developers? If not, does this conduct impact on South African consumers?
67. Does the commission charged by app stores discourage a class of paid app developers in South Africa at a) 30% and b) 15%?
68. Should app stores be doing more to promote the participation of South African and African app developers on global app stores, especially HDP app developers, and if so, how?