

**ONLINE MARKET INQUIRY
SUBMISSION ON THE STATEMENT OF ISSUES BY NASPERS LIMITED**

30 JUNE 2021

INTRODUCTION

1. Naspers Limited ("**Naspers**") is fully committed to engaging with the Competition Commission of South Africa (the "**Commission**") and firmly believes that active participation from all stakeholders is critical in ensuring the constructive development of competition policy in South Africa. Naspers acknowledges the need for competition policy to develop in light of the emergence of new digital markets. It is Naspers' desire to assist in creating an inclusive, innovative and equitable digital economy that will contribute to and accelerate South Africa's economic recovery.
2. The Commission launched the Online Market Inquiry (the "**Inquiry**" or "**OMI**") on 19 May 2021. Following the launch of the Inquiry, the Commission released the Statement of Issues (the "**Statement of Issues**"). As part of its commitment and desire to participate in the Inquiry, Naspers welcomes the Commission's call for submissions on the Statement of Issues and looks forward to providing the Commission with useful insights into the online market.
3. This submission on the Statement of Issues should be read in conjunction with Naspers' submission of 15 March 2021 on the draft Terms of Reference¹ and Naspers' response to the Commission's paper on Competition in the Digital Economy.² As previously submitted, Naspers' view is that, before the Commission takes any enforcement actions or makes any policy amendments, further industry engagement will better serve all participants in, and beneficiaries of, the complex digital markets in South Africa. Industrial policy and efficiency goals should be considered throughout the Inquiry process to ensure there are no unintended consequences of any potential regulations.
4. For an effective inquiry process, Naspers is of the view that the Commission must be fully apprised of the market characteristics and the relevant players therein. In this regard, Naspers refers the Commission to the business units' separate submissions on the Statement of Issues. Naspers has encouraged the business units to engage fully and constructively with the Commission throughout this process. It should also be noted that Naspers makes this submission independently of its business units.
5. In line with Naspers' commitment to constructively engage with the Inquiry, Naspers has provided, in Annexure A and Annexure B, a technical summary of global thinking on these markets and related matters. Naspers provides this information in good faith and in an effort

¹ Published on 19 February 2021.

² Published in September 2020.

to assist the Commission with this process. These are complex topics and global thinking has a tendency to change. We have provided recent developments in these areas.

6. The structure of this response is as follows –

6.1 Part A sets out introductory points on the Naspers business, Naspers' commitment to South Africa and Naspers' commitment to competition policy;

6.2 Part B, contained in Annexure A, discusses relevant markets and market power;

6.3 Part C, contained in Annexure B, sets out specific responses to the scopes of the Statement of Issues; and

6.4 Part D includes further considerations which may be useful to the Commission in the Inquiry.

PART A: NASPERS

7. Background

7.1 Naspers is a South African consumer internet company that operates in over 80 countries and is a national champion that competes on a global scale. Naspers has moved from being a local print media business to become a global digital consumer internet company.

7.2 The rapid development of technology encouraged the expansion and innovation of traditional business models and fundamentally challenged traditional business models across industries, in particular, traditional media businesses.³

7.3 Naspers embraced these challenges and has evolved into a global consumer internet business. Naspers evolved in this way by identifying the opportunities created by digital transformation in nascent markets, both locally and globally, and was guided by its commitment to improving everyday life for millions of people around the world.

7.4 Naspers has assisted companies worldwide to reach their potential and has invested in technologies that address the societal needs of more than two billion people across the world. Naspers has invested in companies that have created jobs, realised economic efficiencies and spurred innovation. These companies have also created significant benefits for consumers.

8. Business structure and investment approach

8.1 The core segments of Naspers' global consumer internet portfolio business, grouped under Prosus, comprise the following:

8.1.1 Classifieds;

8.1.2 Payments and Fintech;

8.1.3 Food Delivery; and

8.1.4 Edtech.

8.2 Naspers' other segments comprise Social and Internet Platforms, E-tail, Prosus Ventures and Media.

³ See generally C Onumah "*Digital Migration: A Comparative Study of the Digital Transformation of the Print Media in Nigeria and South Africa*". University of Barcelona. 2018

- 8.3 Naspers is one of the leading investors in the technology sector in South Africa with a commitment to investing in local internet and e-commerce companies. Some of the companies that Naspers has invested in include Takealot, Mr D Food, Superbalist, OLX, AutoTrader, Property24, PayU and Media24 (the "**Naspers business units**").
- 8.4 Naspers is also focused on contributing towards eradicating youth unemployment in South Africa by developing South African digital talent and employment through Naspers Labs. In FY21, 415 unemployed youth were placed in certified digital programs and in employment. In FY22, Naspers Labs will be working towards placing 1500 unemployed youth in digital skilling and employment.
- 8.5 Furthermore, Naspers is focused on investing in local founder led businesses through the Naspers Foundry. It is also the largest investor in the SME Fund⁴ alongside government and other private sector corporates.

9. Naspers' approach

- 9.1 Naspers is aware of the positive impact that locally built businesses can have on an economic and societal system. On the basis of this understanding, Naspers adopts a "hyperlocal" approach in respect of its investments, i.e. Naspers invests in local entrepreneurs to find local solutions to local needs and business ideas that seek to change people's lives for the better.
- 9.2 Naspers works in partnership with founders and their teams, providing advice and expert resources to assist them successfully to scale their businesses for long-term growth. Indeed, promoting innovative technology to create new ways of conducting business and promoting solutions to societal needs is central to Naspers' operations. Innovation underpins Naspers' purpose of improving everyday life for people by investing in high growth companies and entrepreneurs for the long term.
- 9.3 Naspers understands the positive impact that locally built businesses can deliver through the jobs they create, the products and services they provide, the taxes they pay, and the wider economic and societal ecosystem that they support. Naspers is committed to the local markets and communities in which it invests and operates.

⁴ The SA SME Fund was established by members of the CEO Initiative – a collaboration between government, labour and business to address some of the most pressing challenges to the country's economic growth – as an avenue of support for the SME sector.

- 9.4 Consistent innovation is critical to societal development and improving people's lives. Naspers' decentralised business model is geared towards optimising the ability to innovate.
- 9.5 The process of innovation is non-linear, risk intensive and may require high capital cost. Centralised organisations struggle to engage with substantive innovation that results in large incumbents struggling to adapt to disruptions in the form of technological advances. This is due to these players having existing infrastructure in place that has been developed around a "particular paradigm".⁵ Innovation from other firms, which causes these disruptions, results in traditional players being forced to change strategy, investment, priorities and execution.⁶
- 9.6 Innovation within an ecosystem that provides funding and knowledge sharing is vital to technology companies being able to develop. Ecosystems are being developed by companies from major economies and these business models are the way of the future. This is due to the considerable benefits ecosystems provide to consumers. In order to compete with large global technology players, which do operate as ecosystems, developing an ecosystem is important. Naspers itself, however, is not an ecosystem and the Naspers business units within South Africa do not operate as an ecosystem. For instance, Takealot and OLX do not form part of an ecosystem and are distinct entities. To this end, Takealot and OLX have different reporting lines and oversight structures within the Naspers group.
- 9.7 Technological innovation requires knowledge sharing and access to capital. Naspers provides its companies with access to knowledge and insights across the group. Naspers is proud of its collaborative culture and its business model which drives innovation and, in turn, provides consumer benefit.
- 9.8 This access to knowledge and insights does not extend to the sharing of consumer data, as there is no sharing of consumer data between the Naspers group companies.
- 9.9 Naspers thrives on autonomous company groups being able to innovate and run their operations independently. At the core of Naspers' business plan is the ambition to fund innovative ideas and to ensure that funding reaches companies attempting to disrupt industries through technology. It does this by creating better user experiences and business models that create more value for consumers.

⁵ http://www.thedtic.gov.za/wp-content/uploads/Framing_the_concepts_that_underpin_discontinuous_technological_change_.pdf p.14.

⁶ *Ibid.*

- 9.10 From an outsider perspective, there could be an impression that Naspers would seek to combine the companies it controls to create a centralised enterprise.
- 9.11 This impression might be bolstered within the context of the twenty-first century economy and the importance of data, where centralising and combining all data might be perceived to be a business imperative. However, this is not the case. Technology companies around the world assign a high degree of value to the data that can be collected by consumer businesses. The value of that data can be derived from both the ability to market and personalise, as well as to apply artificial intelligence and analytics, to improve products and services. Data is often seen as the fuel for companies. Naspers does not dispute this. There are many examples of companies that have infrastructures in place to allow their subsidiaries to combine collected data into a centralised data structure. This is not the reality for Naspers.
- 9.12 While the data assets of the companies that Naspers has invested in are very important to the success of those companies, Naspers' decentralised model necessitates that the data sits where it is collected and is not shared in a centralised manner. There may be a commercial advantage to a centralised structure for some types of firms. There should be competition concerns where consolidated data is used to entrench a dominant position or expand into different markets, however the mere sharing of data itself should not be viewed as a concern.
- 9.13 Naspers' federated data structure enables each company to maintain separate data systems. As an investor, Naspers does not have a mandate, nor does it have a policy that mandates, that companies combine and share data. Certainly, Naspers complies with personal data protection laws and it is Naspers view that its approach towards data is aligned with objects and purpose of data protection laws.
- 9.14 Rather, each business unit has its own data silo. While there may be some commercial disadvantages with this structure, there are also several advantages. The advantages of the decentralised model include Naspers being able to maintain its security and data integrity, as well as being able to isolate and manage certain risks from a commercial perspective. Further, each business unit can choose the methods and systems that work best for it, which fosters and drives innovation. Naspers invests in local brands, which are important to specific domestic markets, making it difficult to implement a cross-brand centralisation of data. Lastly, there are multiple technical barriers to affecting a centralised data system involving voluminous data sets.
- 9.15 There may also be a perceived benefit in Naspers sharing datasets with smaller companies within which it has invested in order for those companies to reach scale

more rapidly. This would undermine organic, real innovation and not create sustainable value for consumers. Disruption of large players by small start-ups with no access to data has been regularly observed in practice. These companies grew because of their product quality. There is a premium that consumers place on a product that is unique, well-designed and useful. Disruption in the digital economy will only be truly effective through innovation itself and not through merely reallocating an asset which is already freely transferable by the public itself. The growth of successful user-bases is very rarely as result of an investor buying the company and provided it with all the required inputs. Instead, it is as a result of an organic inception and growth. Forced migration of data may not result in innovative outcomes, and thus will not attract users.

- 9.16 The Naspers business units receive various benefits as a result of being part of the Naspers group. These benefits relate to additional funding, knowledge transfer, guidance on risk management (e.g. cybersecurity) and governance frameworks. However, in all cases, the business units must implement and manage these processes themselves. Naspers also provides independent internal audits to its business units on an arm's length basis, as a tool for the businesses to identify gaps and potential solutions.

Management

- 9.17 Naspers follows a decentralised management approach in respect of its business units in that it exercises oversight through a very clear framework, authority levels and reporting processes but the authority for day-to-day operations is delegated to the relevant management team. The Naspers business units have a high degree of independence within the Naspers Group to implement approved business plans and budgets. Where required, Naspers provides advice and expert resources to assist founders in successfully scaling their businesses for long-term growth. Naspers aims to keep founders actively involved post investment. This ensures that entrepreneurial drive and innovation remains alive in the business, which leads to the successful development of the product or service.

Governance

- 9.18 The Naspers board of directors conducts the group's business with integrity by applying appropriate corporate governance policies and practices. Naspers aims is to keep abreast of regulatory developments, further enhance its governance standards, monitor and ensure compliance with relevant laws and regulations, and cultivate a thriving ethical organisational culture in the different geographies in which it operates.

Naspers also aims to maintain a high standard of reporting and disclosure, keeping in mind the best interests of its stakeholders and disclosing what is relevant and important to the sustainability of the group.

- 9.19 A disciplined reporting structure ensures the board is fully apprised of subsidiary activities, risks and opportunities. All controlled entities in the group are required to subscribe to the principles in terms of King IV.⁷ Business and governance structures have clear approval frameworks and Naspers operates a group wide legal compliance programme.
- 9.20 In respect of risk management, Naspers identifies and manages risk in line with international best corporate governance practice and applies the relevant rules and regulations. The management and the board run a process of identifying major risks in each of the managed business units, using a "top down" and a "bottom up" approach. This is then reported to the risk committees of the board, together with tolerance levels and mitigation plans.
- 9.21 There are limited cross-directorships within the Naspers group. Naspers has stringent practices in place to ensure that there are no cross-directorships between entities that compete (or potentially compete). This is driven by competition law objectives where Naspers seeks to prevent the sharing of competitively sensitive information.
- 9.22 Naspers' responsibility is to ensure that consistency extends further than compliance and legal obligations. As a technology investor, Naspers has a responsibility to ensure that it is a responsive and inclusive corporation. Naspers encourages entrepreneurs to exploit new digital technologies, but still holds them to account within the wider society within which they act. Simply put, technology companies do not live in a vacuum. This more mature and more regulated era creates important responsibilities and opportunities for the world's leading global consumer internet companies. This informs the oversight role that Naspers plays in relation to the companies in which it invests.

Sustainability

- 9.23 Naspers' global reach provides an opportunity to stimulate positive change and address shared global challenges. Naspers uses its presence, both as investor and

⁷ The King IV is structured as a Report that includes a Code, with additional, separate sector supplements for SME's, NPO's, State-Owned Entities, Municipalities and Retirement Funds. The King Code contains both principles and recommended practices aimed at achieving governance outcomes

operator, across the globe to support the acceleration to a more responsible way of life and sustainable economies.

- 9.24 Naspers has built its business around enabling technology that addresses substantial societal needs, improves people's lives, and enriches the communities we live and work in.
- 9.25 Sustainability is at the core of what Naspers does. By investing in digital platforms, Naspers keeps its environmental impact light, while enabling newer, smarter and greener ways to meet consumer needs. As customers move more and more activities to digital, there's a positive environmental impact. From money transfers, to the buying and selling of secondhand cars, books and clothes, the digital delivery of services replaces the need for physical infrastructure and limits transportation. When customers buy and sell used goods, they extend the life of a product, directly contributing to a more sustainable way of life.
- 9.26 Naspers sustainability approach starts with good governance and a clear-sighted assessment of our own impacts. A comprehensive materiality assessment informs the priorities Naspers sets for its business.
- 9.27 Naspers positive impact is embedded in its core business model. Within Naspers direct holding companies, Naspers sets high standards and expectations while demonstrating best practices on topics that are material to its stakeholders.
- 9.28 With majority-stake controlled companies, Naspers engages proactively to ensure those companies reflect Naspers' principles on topics material to their own business and operations.
- 9.29 Finally, Naspers encourages minority-stake non-controlled companies to adopt best minimum standards that align with Naspers position on key environmental, social and governance topics.

Capital allocation and funding

- 9.30 Naspers has stringent capital allocation standards. There is an expectation that companies in which Naspers invests will perform in accordance with these standards. To ensure performance, Naspers conducts internal review sessions to ensure specific targets are met. Naspers' robust capital allocation requirements focus on ensuring that internal rates of return are achieved sustainably. Naspers also considers organic revenue growth, trading margins and other indicators to assess the performance of its businesses. This ensures that Naspers' capital is placed in the correct places.

Naspers' capital allocation strategy helps it rigorously manage its assets for growth, while balancing the importance of making a positive impact on society. Naspers pursues growth by building leading companies that empower people and enrich communities. Naspers' core focus on investing in companies that use digital technology to improve the daily lives of millions of people, helps Naspers to deliver performance and value for all its stakeholders.

- 9.31 Naspers provides funding to the companies in which it has invested. Funding depends on the nature or structure of the relevant company. There is a financial and strategic justification to funding. Naspers' extensive experience in funding technology companies has enabled the company to develop prudent funding structures that enable the companies in which it invests to focus on providing innovative offerings to consumers. Funding is critical for these companies to reach the scale needed to compete in digital markets. In turn, the possibility of attracting capital investment from companies such as Naspers drives companies to be innovative, as being innovative will increase the likelihood of investment.

Decision to exit an investment

- 9.32 Naspers' aim is to assist companies to reach their full potential. From time to time, Naspers will exit an investment for commercial reasons or, when the investment no longer fits with the original investment parameters or group's strategic imperatives. For example, Naspers unbundled and listed MultiChoice Group to unlock value for its shareholders as it moved to becoming a pure consumer internet company. In addition, Naspers exited from other investments such as FlipKart and Allegro, to invest the proceeds of these disposals to grow its other businesses.
- 9.33 The Naspers board will ultimately decide whether larger investments should be exited. For smaller investments, the decision to exit an investment or close down a business is taken at a segment level or by the CEO.

Knowledge sharing

- 9.34 As already noted, Naspers provides its companies with access to knowledge and insights across the group. This access to knowledge and insights does not extend to the sharing of data. There is no sharing of consumer data between the Naspers business units.
- 9.35 Within segments, Naspers encourages its business units to share ideas and best practices. This results in consumers throughout the world benefiting from innovations

developed in different geographies. It provides local disruptors facing competition from large global technology players with the benefits of intellectual capabilities and a global network. The Naspers group's Artificial Intelligence ("**AI**") team also assists the Naspers business units in developing unique internal AI capacities. Naspers' AI capabilities are used to personalise the user experience, particularly in search, recommendations and content moderation. AI is also used in an OLX context, for instance, to improve the user experience and to improve customer safety and fraud detection. In the food delivery space, AI is harnessed to optimise route selection and assist restaurants' partners in predicating demand.

10. South African contribution and commitment

*Naspers Foundry ("**Foundry**")*

- 10.1 The Report of the Presidential Commission on the Fourth Industrial Revolution (the "**Presidential Report**") recommends that support for Small and Medium Sized Enterprises ("**SMEs**") is required to enable SMEs to become globally competitive industrial players. In this regard, the Presidential Report notes that enabling ease of global competitiveness and expansion is essential. Naspers fully supports this recommendation and views Foundry, its South-African focused SME funding initiative, as a model that achieves this.
- 10.2 Foundry is a R1.4 billion early-stage business funding initiative, which supports a range of diverse South African technology entrepreneurs. Foundry is an important contributor to growing South African technology talent. As of June 2021, Foundry has made investments in the following South African companies:
- 10.2.1 *Sweep South*, an online home cleaning services marketplace business which has facilitated over 20,000 jobs to date for some of the most vulnerable members of our society across most of the major metropolises in SA. The business was significantly affected by Covid-19 given that it involves the deployment of cleaning professionals into clients' homes. Nonetheless the business has recovered through the support of its shareholders.
- 10.2.2 *Aerobotics*, an agricultural technology company, that is involved in the provision of subscription-based AI. This is an example of how technology is helping the South African agriculture industry to become a frontier for technological development as more investments flow into the sector. Aerobotics is also helping ensure South African food security.

- 10.2.3 *Food Supply Network*, a business-to-business marketplace that integrates food ordering systems of manufacturers, distributors and restaurants. It provides an end-to-end technology platform that streamlines food ordering processes whilst improving stock accuracy and saving time.
- 10.2.4 *The Student Hub*, an online educational technology platform, which increases access to vocational education for large numbers of students while reducing the costs of delivery of education and training. The Student Hub partners with TVET colleges to improve access to training and education.
- 10.2.5 *WhereIsMyTransport*, a mobility technology company that maps formal and informal public transport networks and uses this data and technology to improve the public transport experience, making public commutes more reliable, predictable, safe, inclusive and accessible for millions of people in highly populated megacities like Cape Town and the Gauteng region.

Naspers Labs ("Labs")

- 10.3 Labs is a youth development programme aimed at increasing economic participation of South Africa's historically disadvantaged communities. The programme addresses the skills gap and training needs of young people, enabling them to become productive contributors in an increasingly digitally driven economy.
- 10.4 Labs is working on solutions that will further accelerate its contribution to youth development and to prepare South Africa's youth for valuable technology careers. Naspers understands the role that technology can play in unlocking the potential of South Africa's youth and remains committed to doing its part in this cause.
- 10.5 Labs follows the same approach to Naspers, in that it aims to foster innovation. The programme has developed the following solutions;
- 10.5.1 Collaborating via impactful peer to peer and sector partnerships to build an ecosystem to facilitate the creation of entry level roles suitable for youth within key sectors such as digital/ICT, financial services and vocational.
- 10.5.2 De-risking youth employment by skilling young people in the necessary technical, digital and interpersonal skills that are required for success in today's digital economy. To enable industry to leverage youth talent to meet their human resource needs.

- 10.5.3 Investing in programmes that prioritise black youths from vulnerable backgrounds, females and youth living with disabilities.
- 10.5.4 Applying the patient capital model to support, coach, mentor and accelerate black owned tech and tech enabled youth micro enterprises to gain market access, social capital (networks) required scale their business and to create youth jobs; and to make a sustainable impact to their local economies. Effectively enhancing their competitiveness and investment readiness.
- 10.6 There is no doubt that the digital economy will form a fundamental part of the growth of South Africa's economy going forward. It is crucial to ensure that it is inclusive and innovative, and nurtured as much as possible in order to support its growth and vibrancy. Naspers is, and will continue to be, committed to this objective.

Covid-19

- 10.7 Globally, and at a local level, Naspers has been endeavouring to support the communities in which it operates so that together with the stakeholders, the group can help tackle the challenges of the pandemic and emerge stronger in the long term. Naspers has used its technological expertise, global networks and resources to contribute to the Covid-19 response in many countries, particularly in South Africa.
- 10.8 In April 2020, Naspers donated R1.5 billion in emergency aid to the South African Government's response to the Covid-19 crisis. This comprised R500 million to the Solidarity Fund and R1 billion of personal protective equipment and other medical supplies to public frontline healthcare workers across the country.
- 10.9 In respect of consumer benefits, Naspers significantly contributed to making the lives of South African's better and safer during the pandemic. In this regard:
- 10.9.1 Media24 continued to keep the public informed throughout the pandemic with accurate and responsible reporting;
- 10.9.2 Mr D Food ensured that consumers had safe methods of accessing meals and allowed restaurants to serve more consumers than would have been possible without these food delivery subsidiaries. Mr D Food has also, through franchisees, created and maintained jobs throughout the pandemic for food delivery drivers; and
- 10.9.3 Takealot enabled consumers to procure essential goods safely.

Tax contribution

- 10.10 Naspers continues to contribute significantly as a major tax contributor in South Africa, paying over R13 billion in FY20.
- 10.11 Naspers remains firmly committed to South Africa. This is demonstrated through its ongoing investment commitments over the years.⁸ Further, Naspers sees tremendous opportunity for technology to drive inclusive economic growth in South Africa.
11. The need for South African champions in the technology space to compete on a global stage
- 11.1 South African industrial policy seeks to enable South Africa to become a more technologically driven country which prioritises innovation and the use of technology. On 6 August 2020, President Ramaphosa, on receipt of recommendations contained in the report of the Presidential Commission on the Fourth Industrial Revolution, stated that, "South Africa must be a more technologically driven country that finds solutions that move us forward, with [the fourth industrial revolution] as a pivot for economic recovery". Further, the President said that digital transformation had to be harnessed "to change the way we live, learn, work and govern". Naspers fully supports the President and the South African Government in this regard. It is important for all stakeholders to create, and invest in, an environment that encourages technological innovation. Technological innovation is understood to be the practice of making a technological invention applicable within a particular context. In this case, the South African context.
- 11.2 In the "*Framing the concepts that underpin discontinuous technological change, technological capability and absorptive capacity*" paper⁹, which was commissioned by the Department of Trade and Industry,¹⁰ it was astutely stated that there is a need for South African business to be better at "*...identifying new ideas, concepts and technologies, adapting these ideas to the local context, and innovating using new technologies as platforms. In other words, our enterprises have to become better at innovating at the product, process and business model levels*".
- 11.3 This is a challenge which South Africa's industrial policy must seek to address. There is a difference between the *invention* of a process or product and *innovation*.

⁸ As evidenced at the SA Investment Conferences.

⁹ TIPS Research Report for Department of Trade and Industry, November 2018.

¹⁰ Since renamed the Department for Trade, Industry and Competition.

Innovation is the practice of making an invention applicable in a particular context.¹¹ Building South Africa's technological capabilities rests largely on the country's ability to foster innovation.¹² In this regard, technological capability does not simply mean copying inventions from elsewhere, but actually applying these technological advances within a South African context. Advancing South Africa's technological capabilities also requires capital to be allocated to companies that are innovating and developing more efficient products and services.

- 11.4 One of Naspers' strengths has been identifying new concepts and technologies and applying them to the South African context. This has led to job creation, consumer welfare and allocative efficiencies. Jurisdictions without willing investors (such as Naspers) lack local solutions to societal problems. Instead, foreign companies enter the market and are unable to deliver the same local solutions. Not only does innovation result in consumer benefit, firms operating within markets that are rife with innovation face consistent competitive threats. Further, many countries have begun to acknowledge that the sustainable development of economies relies on innovation and that it is a key driver of growth. In this regard –

*"The operating environment of enterprises is among those factors that contribute to their innovation. For instance, those enterprises operating in a dynamic environment face huge challenges from constantly changing internal and external factors, and an enterprise that fails to respond to these changes may be eliminated from the market. Innovation can also promote the sustainable development of countries, that is, the sustainable development of an economy hinges on its innovation."*¹³

- 11.5 To a large extent, innovation requires knowledge sharing as a critical input. Secondary inputs, such as financial resources and management, are also important in developing innovation.¹⁴
- 11.6 The regulatory environment must promote and encourage the development of South Africa's technological capacities. This requires the active and willing engagement of companies that have the experience and business models that are geared towards fostering technological innovation. Additionally, such companies must be of the view

¹¹ Ibid., p.18.

¹² Ibid.,

¹³ Silvestre, B.S.; Tîrcă, D.M. Innovations for sustainable development: Moving toward a sustainable future. *J. Clean. Prod.* 2019, p.208, 325–332 and Buenechea-Elberdin, M.; Sáenz, J.; Kianto, A. Exploring the role of human capital, renewal capital and entrepreneurial capital in innovation performance in high-tech and low-tech firms. *Knowl. Manag. Res. Pract.* 2017, p.15, 369–379.

¹⁴ Castaneda, DI, Cuellar, S. Knowledge sharing and innovation: A systematic review. *Knowl Process Manag.* 2020; p.27: 159– 173. <https://doi.org/10.1002/kpm.1637>

that the success of their investments in South Africa will not be met with regulatory distrust or unwarranted intervention. This requires that South African regulators recognise the importance of innovation and how digital markets operate. Should there not be such a recognition, and if incorrect messages are sent to the private sector, there could be a chilling effect on innovation. Thus, technological innovation allows for consumer benefits and healthy competition, and has been recognised as a key driver of growth in sustainably developing economies.¹⁵ Consumers and economies thrive most effectively in conditions where, through the use of new technologies or business models, large incumbent players are challenged and disrupted. The Commission acknowledges this in its paper on Competition in the Digital Economy at various junctures.¹⁶ Naspers supports this notion and has a world-leading track record of investing in innovative technology disruptors.

11.7 Innovation necessarily requires knowledge sharing, as well as capital and effective management. In addition, a regulatory environment where South African regulators recognise the importance of innovation and the functioning of digital markets is critically important. Absent this, South Africa may see a chilling effect on innovation.

11.8 Naspers recognises that investing in digital transformation is fundamental to growing the South African economy. In October 2018, Naspers committed to invest approximately R4.6 billion in the South African technology sector, with R3.2 billion allocated to the development of its existing technology businesses and R1.4 billion committed to Naspers Foundry. Additionally, Naspers is committed to contributing to the development of an industrial policy that is in the best interests of all stakeholders, where a balance is struck between attracting investment and economic inclusion.

11.9 Naspers endeavours to support South Africa's industrial policy and is committed to being part of the solution.

South African success stories

11.10 Naspers has invested in some of South Africa's most successful companies that compete on a global scale and provide significant consumer benefits. To this end, Naspers has invested in, and developed, companies that are capable of competing on a global stage.

¹⁵ Silvestre, B.S.; Tîrcă, D.M. *Innovations for sustainable development: Moving toward a sustainable future*. J. Clean. Prod. 2019, p.208, 325–332 and Buenechea-Elberdin, M.; Sáenz, J.; Kianto, A. *Exploring the role of human capital, renewal capital and entrepreneurial capital in innovation performance in high-tech and low-tech firms*. Knowl. Manag. Res. Pract. 2017, p.15, 369–379.

¹⁶ Version Two Paragraphs 1.2, 1.5, 2.1 and 2.4 and the introduction to Chapter 3.

11.11 For local companies to succeed, continuous investment is essential, and economies of scale can be important drivers of efficiency and consumer benefits. Naspers' investments in South Africa, and its building of sustainable ecosystems in which innovation can thrive, has resulted in multiple South African success stories. Mr D Food has, over time, developed the scale to compete with international entrant Uber. Takealot is a local e-commerce retail competitor in a sector that have leading global e-commerce platforms like Amazon and Alibaba, and Africa's largest e-commerce platform, Jumia. OLX, on the other hand, has faced strong competition in South Africa from global players such as Facebook Marketplace and Gumtree (part of the eBay group of companies) in the online classifieds space.

11.12 Further, South African consumers benefit from South African technology companies having the scale to compete and improve their product offerings. The multiplier effect (of the investment into the creation of start-ups) throughout the country is to the benefit of all South Africans. Naspers is investing in technology that will solve major societal needs. For example, the scale that Takealot has achieved means that smaller communities will have access to goods in ways that they never have had before, and at far lower costs.

12. Naspers' Competition Compliance Policy

12.1 Naspers has adopted a competition compliance policy to ensure that Naspers Group employees and directors understand the principles that are reflected in competition law as well as the competition law compliance standards that apply.

12.2 Naspers aims to "*outperform competitors fairly and honestly*". It is the Naspers policy to seek competitive advantages through superior performance, not through unethical or illegal business practices. The Naspers business units are required to comply with all applicable laws and regulations, including those relating to competition.

12.3 Naspers acknowledges and appreciates that the fundamental objective of competition law is to protect and promote free and fair competition. For this reason, competition law prohibits conduct that prevents, restricts or distorts fair competition. Indeed, it is the level playing field, protected by competition law, that has enabled the Naspers business units to thrive.

12.4 Competition law is important to Naspers because economies and consumers benefit from a level playing field with variety in product and service offerings. Competition law safeguards effective competition in order to deliver open, dynamic markets and

enhance productivity, innovation and value for customers. The Naspers group competes openly and fairly and complies with applicable competition legislation.

12.5 Naspers' constructive engagement with the Inquiry is conducted on the basis of Naspers' appreciation of competition laws.

12.6 The Naspers competition compliance policy can be reviewed at <https://nasperscompetitionpolicy>.

PART B: The Relevant Market(s)

13. In Part B of the Naspers' submission, attached hereto as "**Annexure A**", we consider how the relevant market(s) should be defined in respect of digital markets. In addition, we discuss market power within the relevant market(s). To this end, Part B contains a detailed discussion on the following features of the relevant market(s):
 - 13.1 the impact of COVID-19 on digital markets;
 - 13.2 multi-sided platform markets;
 - 13.3 network effects;
 - 13.4 single-market vs a multi-market approach;
 - 13.5 independent vs interdependent markets;
 - 13.6 markets without a price;
 - 13.7 the applicability of the SSNIP test in multi-sided platform markets;
 - 13.8 multiple markets on one side of the platform;
 - 13.9 homing decisions; and
 - 13.10 international competition.

PART C: Response to the contents of the Statement of Issues

14. In Part C of the Naspers' submission, attached hereto as "**Annexure B**", we set our Naspers' response to the individual scope questions, relevant to Naspers, contained in the Commission's Statement of Issues. To this end, Part C contains a discussion on the following:

14.1 Scope 1: *"Evaluate trends in adoption and use of the different online intermediation platform markets, including the identification of leading platforms across each market"*.

Discussion includes consideration of various trends within the relevant market including user adoption, mergers and acquisitions, the entry and exit of firms and market power¹⁷.

14.2 Scope 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, exclusivity contracting, loyalty incentives, conglomerate leveraging (including data and advertising) and predation"*.

Discussion includes consideration of conglomerate effects (tying and bundling), digital conglomerates and digital ecosystems.

14.3 Scope 3 - *"Evaluate other barriers to entry and expansion by rival platforms, including but not limited to network effects, capital costs and consumer marketing"*.

Discussion includes consideration of barriers to entry and network effects in platform markets, user expectations and multiple markets, the role of single-homing vs multi-homing, market dynamics and consumer switching costs and network effects.

14.4 Scope 5 - *"Evaluate whether the ranking algorithms used by platforms, including any pay for position or promotional opportunities, negatively impact competition on the merits, consumer choice and / or the participation of SMEs and HDP owned business users"*.

¹⁷ Including discussion in respect of revenue shares, user shares, market dynamics, profitability, single homing versus multi-homing, barriers to entry and potential competition, data and a discussion of other forms of direct evidence of market power.

Discussion includes consideration of how platforms operate in respect of algorithms as well as an explanation of the algorithms used by Naspers and how these algorithms operate.

- 14.5 *Scope 6 – "Evaluate any other barriers to entry into online commerce for SMEs and HDP owned firms, including but not limited to marketing costs, technological and product challenges".*

Discussion includes consideration of the key business functions that can be carried out by SME and HDP – owned firms using online platforms, the benefits of platforms for SME and HDP firms and, Naspers' approach to enabling smaller firms to participate in the relevant market.

- 14.6 *Scope 7 – "Evaluate the extent to which the findings and any identified remedies in respect of core platforms and generalisable across online intermediation platforms".*

- 14.7 *Scope 8 – "Determine appropriate remedies where an adverse effect on competition or the purpose of the Act are found as set out in Section 43C(3) of the Act"*

Discussions in respect of scope 7 and 8 include international generalised findings and identifiable remedies in respect of online intermediation platforms.

PART D: OTHER CONSIDERATIONS

15. The scope of the inquiry

15.1 It is Naspers view that the Inquiry should stay within the scope, as provided for in the Statement of Issues, which states that the Inquiry should focus on platform that intermediate goods between consumers and businesses.¹⁸

15.2 It should be noted that Superbalist is not an ecommerce marketplace and it does not facilitate transactions between business users and consumers. It is a pure-play reseller, which purchases goods from suppliers and resellers them to consumers.

15.3 As such Superbalist would not fall under the scope of the Inquiry and Naspers encourages the Inquiry to take note of this.

16. Existing competition legislation

16.1 As submitted previously by Naspers, Naspers submits that the Commission's key concerns involving dominant firms operating in the e-commerce and online services sectors have already been comprehensively addressed by the buyer power regulations and amendments to the existing price discrimination provisions of the Competition Act.

16.2 For example, the use of a supplier's sales data and information that is gathered by an e-commerce or online service provider in order to compete with the supplier, is regarded as an unfair trade practice. The same applies to self-preferencing. In this regard, it is unlawful for a dominant firm to apply differential and favourable treatment to goods or services supplied by the e-commerce or online service provider itself, at the expense of third-party suppliers. Further, the amendments to the existing price discrimination provisions of the Competition Act are aimed at addressing pricing actions by dominant firms that may impede the ability of SMEs and firms owned by HDPs to participate effectively in markets. These provisions would apply to anti-competitive volume rebates or other incentives.

¹⁸ Page 3 of the Statement of Issues

17. Killer Acquisitions

- 17.1 One area of potential concern in the digital platform market space, is the acquisition of small and successful start-ups (which still have very low turnover but have a fast-growing user base and significant competitive potential) by dominant platforms.¹⁹
- 17.2 However, such acquisitions may be pro-competitive. In general, the search for the firm's optimal boundaries, whether by internal or external growth, is an important part of the competitive process. In the digital space, mergers between established firms and start-ups may bring about significant synergies and efficiencies. On the one hand, the start-up may contribute innovative ideas, products, and services. On the other hand, the established firm may possess the skills, assets and financial resources required to further deploy these products and bring them to the mass market. At the same time, the chance for start-ups to be acquired by larger companies is an important element in venture capital markets: it is among the main exit routes for investors and provides an incentive for private financing of high-risk innovation.²⁰
- 17.3 Concerns may arise, however, when these acquisitions result in a strengthening of dominance and thus a significant impediment of effective competition. This may happen, for example, by eliminating a competitive threat and/or by raising barriers to entry for other (potential) competitors, further reducing the risk of attacks on a strongly entrenched market position from the fringe. Such concerns may be particularly serious if there is a systematic pattern of such acquisitions by dominant platforms.²¹
- 17.4 These types of acquisitions have been referred to as so called "killer acquisitions", that have typically been observed in the pharmaceutical industry. In such "killer acquisitions", an incumbent acquires a potential competitor with an innovative project that is still at an early stage of its development and subsequently terminates the development of the target's innovation in order to avoid a replacement effect.²² In doing so, the incumbent pre-empts competition from innovating firms that may potentially threaten their market position.²³

¹⁹ Crémer, J., de Montjoye, Y. and Schweitzer, H. (2019). *Competition Policy for the Digital Era*. European Commission. <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>. p.110.

²⁰ Crémer, J., de Montjoye, Y. and Schweitzer, H. (2019). *Competition Policy for the Digital Era*. European Commission. p.111.

²¹ Crémer, J., de Montjoye, Y. and Schweitzer, H. (2019). *Competition Policy for the Digital Era*. European Commission. <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>. p.111.

²² See, for instance, Cunningham, C., Ederer, F. and Ma, S. (2018). *Killer Acquisitions*. Available at SSRN: <https://ssrn.com/abstract=3241707> or <http://dx.doi.org/10.2139/ssrn.3241707>.

²³ Crémer, J., de Montjoye, Y. and Schweitzer, H. (2019). *Competition Policy for the Digital Era*. European Commission. <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>. p.117.

- 17.5 It has also been implied that a somewhat different kind of “kill zone” exists for innovative technology firms vis-à-vis incumbent technology companies. In particular, it is argued that a zone is established by large digital firms in which start-ups hesitate to invest due to an anxiety that successful innovation might be copied or bought up easily. This has led some authors, such as Bourreau & De Streel (2019)²⁴ to call for a new innovation-based theory of harm in merger control. Essentially, they argue that competition authorities should explore whether the merger brings about the risk of a “cannibalisation effect” – is there a plausible scenario in which the target, using its innovation, could “eat into the market of the acquirer”? If yes, would the acquirer have an incentive to delay or cancel potential innovation?²⁵
- 17.6 This is, however, not typically the scenario in technology markets. Frequently, the projects of the start-up that is bought is integrated into the ecosystem of the acquirer, or into one of its existing products. Clearly, this differs from “killer acquisitions” insofar as the integration of innovative complementary services often has a plausible efficiency rationale.
- 17.7 The theory of killer acquisitions does not apply to Naspers in any way. As explained above, Naspers’ strategy is about finding and investing in excellent entrepreneurs (i.e. founders) with a good business model, which is aligned to Naspers’ core segments and its broad strategy.
- 17.8 Naspers is cognisant of the competition implications of its transactions and all transactions are subject to approval from the competition authorities. All of Naspers’ acquisitions in South Africa have been approved without conditions (with the exception of WeBuyCars).²⁶
- 17.9 Takealot acquired Kalahari.net from Naspers in 2015. The transaction was in fact a disposal by Naspers of its interest in Kalahari.net. Naspers only acquired control over Takealot in 2017, approximately two years after Takealot’s acquisition of Kalahari.com. Therefore, Naspers’ acquisition of Kalahari.net was incidental, and not a planned “killer acquisition strategy”. Further, the Tribunal found that the transaction would not lead to a substantial lessening or prevention of competition in any market, and accordingly approved the transaction without conditions.

²⁴ Bourreau, M. and de Streel, A. (2019). Digital Conglomerates and EU Competition Policy.

²⁵ Crémer, J., de Montjoye, Y. and Schweitzer, H. (2019). *Competition Policy for the Digital Era*. European Commission. <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>. p.117.

²⁶ Naspers cannot speak for the business units in this regard (including Foundry which operates as outlined in Paragraph 9 of this submission).

17.10 In 2017, Naspers acquired AutoTrader. The Commission stated that it did not raise any competition concerns. Hence, the transaction was approved without any competition-related conditions. However, the Competition Tribunal imposed public interest conditions which prohibited merger related retrenchments for a period of time (although the transaction did not result in any retrenchments).

CONCLUSION

18. Naspers is a company that is deeply invested in South Africa. As such, it will continue to innovate and invest in technologies in the digital sector. Through these endeavours, it will create opportunities, and enhance and maintain employment levels for the betterment of all, now and into the future. Investing in this way will certainly assist with reviving the economy and achieving the growth objectives of Government.
19. Naspers' contribution to South Africa is further illustrated through its considerable tax contribution, as well as its meaningful donations in emergency aid to fight the Covid-19 pandemic.
20. Naspers' values are reflected in its drive to stimulate positive change through sustainability. By investing in digital platforms, Naspers limits environmental impact by developing green technologies that meet consumer demands.
21. Naspers maintains a decentralised approach in respect of its business units in South Africa and globally. This approach enables its business units to thrive, as they are able to innovate and operate in a relatively unfettered, independent and entrepreneurial manner. Naspers does, of course, exercise appropriate oversight through a clear framework of authority levels and reporting processes. Although the business units operate independently, they are still able to benefit from funding, knowledge sharing, expert advice and other group resources.
22. Naspers has endeavoured to support the entry of SMEs into the digital sector through its R1.4 billion Foundry early-stage funding initiative. As indicated in this submission, Naspers has invested in a significant number of South African companies, such as SweepSouth, WheresMyTransport, Aerobotics, Food Supply Network and The Student Hub – with more deals in the pipeline.
23. Through the submission, Naspers elaborates upon some of the key features of digital markets and discusses why these markets should be assessed in a unique and holistic manner.
24. Naspers has also provided the Commission with insights into global trends in digital markets and also provides information in relation to the significant growth of online platforms and services in South Africa. Naspers' view is that there has been, and will continue to be, significant growth in this sector. This translates into even more competition, especially as traditional businesses adapt to these changing market dynamics.
25. Finally, it is worth reiterating that Naspers is approaching the Inquiry in an open and transparent manner with a view to providing impactful and insightful information. Naspers

is firmly of the view that, through constructive and transparent engagement, a better outcome for all participants will be achieved, as any findings and decisions will be based on an informed position.

ANNEXURE A

PART B: The Relevant Market(s)

In this section, Naspers sets out some features of digital markets that the Commission may consider in defining the relevant markets and further understanding market power within the relevant markets.

26. Market definition(s)

26.1 Digital markets are sometimes portrayed as distinct from traditional markets. This is not correct. Rather, as held by the Competition Tribunal (the "**Tribunal**"), online retailers are still constrained by bricks and mortar retailers.²⁷ Not only are digital companies constrained by traditional businesses in terms of price and other factors, traditional business are entering the digital space at a rapid pace organically, or through acquisition.

26.2 The Covid-19 pandemic has undeniably accelerated digital adoption and has resulted in consumers making use of digital platforms more than ever before. This has been to the benefit of both consumers and business users. To this end, we list examples of digital acceleration in South Africa below. .

26.2.1 Woolworths Fashion, Home and Beauty online sales grew by 41.3% between January and June 2020. Woolworths has now communicated to shareholders that e-commerce has become an immediate priority and that the company's focus has shifted to strengthening its online offer and capacity.

26.2.2 Pepcor now views e-commerce as a key "growth driver" and has stated that its operations are prepared for changes in consumer behaviour with accelerated progress in e-commerce and fintech capability.

26.2.3 Mr. Price Group saw online sales grow by 90% from April to June 2020 and recently entered into a transaction to acquire e-commerce business Yuppiechef.

26.2.4 Clicks has stated that e-commerce is now its largest and fastest growing "store" and that growing its e-commerce capabilities is a strategic group objective.

26.2.5 Massmart enjoyed triple-digit growth in online sales during the 2020 financial year and is actively pursuing strategic partnerships to build capability. Further,

²⁷ MIH Ecommerce Holdings (Pty) Ltd and Takealot Online (RF) (Pty) Ltd LM038May17

Massmart recently announced that it will invest USD16.2 million in digital transformation, tools and process integration.

- 26.2.6 Imperial Logistics has bought South African e-commerce logistics specialist ParcelNinja, which is aimed at supporting "*Imperial's strategic ambitions to accelerate [Imperial's] digital capabilities*".²⁸
- 26.2.7 Transaction Capital has entered into a transaction to purchase WeBuyCars, a player in the online space.
- 26.2.8 Nedbank has moved into the digital retail space by launching an e-commerce platform called "Avo".
- 26.2.9 In the mining sector, digital data platforms, remote machine operation, virtual reality and reduced mining waste are being considered as leaders of South Africa's deep mines seek the safest manner for their employees to operate. For instance, Goldfields has been exploring the potential of digital investments in relation to its mining operations.²⁹
- 26.2.10 GovChat has developed a symptom tracking application which has been utilised during the Covid-19 pandemic.
- 26.2.11 There is a clear trend of new entrants moving into this space.³⁰ These various firms entering the or expanding into the digital space have completely different and, in some cases, superior, infrastructure and assets (including data) to Naspers. Many of these firms have existing physical infrastructure, logistic networks, long-standing supplier relationships and have the ability to amass historic data on their consumers (for example, through loyalty programmes, in store data analytics and tracking). There is also a greater possibility of vertical integration for these firms, as many of these companies manufacture or re-sell goods, have extensive retail footprints, marketing capabilities and offer financial services.
- 26.3 Before turning to issues relating to the definition of the relevant market in multi-sided or platform markets, it is important to first define a multi-sided or platform market. A

²⁸ <https://techcentral.co.za/imperial-buys-e-commerce-specialist-parcelninja/105216/#:~:text=JSE-listed%20Imperial%20Logistics%20announced%20on%20Tuesday%20that%20it,reported%20a%2015%25%20increase%20in%20revenue%20to%20R26.4-billion.>

²⁹ <https://www.goldfields.com/news-article.php?articleID=10415>

³⁰ Also refer to pages 19&20 of the Naspers Submission on the Draft Terms of Reference which sets out further examples.

multi-sided platform market can broadly be defined as “...a market in which a firm acts as a platform and sells different products to different groups of consumers, while recognising that the demand from one group of customer depends on the demand from the other group(s).”³¹ Franck & Peitz (2019) also point out that the notion of “two-sided markets” comes from economic theory and refer to situations, “in which a social value arises through the interaction of different groups and in which this interaction takes place via an intermediary that brings the two groups into contact with each other.”³² In particular, these markets share two distinguishing features:

- 26.3.1 Firstly, there are distinct groups that interact with one another across the platform. Multi-sided platform markets have at least two groups/sides relying on the platform to connect them directly or indirectly to each other.³³
- 26.3.2 Secondly, cross-platform externalities or network effects exist among these distinct groups. The different sides of a platform market are interdependent in the sense that their decisions affect each other directly or indirectly.³⁴

Network effects

- 26.4 Network effects are the cross-platform "externalities" resulting from the actions of participants on any side of the platform (or the platform itself), affecting participants on the other side(s) of the platform (or the functioning of the platform itself). "Externalities", in turn, can be either direct (for instance, an increase in content providers makes the platform more valuable to content consumers) or indirect (for instance, a platform's provision of better terms for users makes the platform more attractive to content or service providers and to advertisers).³⁵
- 26.5 Network effects can also be either positive or negative. Positive direct network effects exist when the value that a customer on one side realises from the platform is an increasing function of the number of customers on the other side. Negative direct network effects exist when users suffer from increased participation from other users.

³¹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).
https://www.cerre.eu/sites/cerre/files/2019_cerre_market_definition_market_power_platform_economy.pdf.

³² Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

³³ Shelanski, H., Knox, S. & Dhillia, A. (2017). *Network Effects and Efficiencies in Multisided Markets*. Paper submitted for OECD Hearing on rethinking the use of traditional antitrust enforcement tools in multi-sided markets. 21 – 23 June 2017. [https://one.oecd.org/document/DAF/COMP/WD\(2017\)40/FINAL/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2017)40/FINAL/en/pdf)

³⁴ Shelanski, H., Knox, S. and Dhillia, A. (2017). *Network Effects and Efficiencies in Multisided Markets*. Paper submitted for OECD Hearing on rethinking the use of traditional antitrust enforcement tools in multi-sided markets. 21 – 23 June 2017.

³⁵ Shelanski, H., Knox, S. and Dhillia, A. (2017). *Network Effects and Efficiencies in Multisided Markets*. Paper submitted for OECD Hearing on rethinking the use of traditional antitrust enforcement tools in multi-sided markets. 21 – 23 June 2017.

This may be due to overloading the platform, for instance, when a telecommunication network becomes congested due to too many users using it simultaneously.³⁶

- 26.6 Positive indirect network effects refer to a situation in which users benefit more from increased participation of other users only because of the interaction with the usage decisions of another group of users. For instance, on e-commerce platforms, sellers represent one group of users and buyers another group. If, all other things being equal, more buyers attract more sellers and *vice versa*, there are positive indirect network effects on both sides of the market. In other words, if the two groups are mutually connected by cross-group external effects, there are positive indirect network effects on both sides of the market.
- 26.7 *Negative indirect network* effects may also occur. For instance, more potential buyers may, all other things being equal, attract more advertisers, however buyers often find more advertisements to be a disturbance. In this case, there is a negative feedback loop and, hence, there are negative indirect network effects. Note that there can also be both direct and indirect network effects that occur at the same time.³⁷
- 26.8 As alluded to above, the different sides of the platform are connected through cross-group external effects. In particular, positive mutual cross-group external effects lead to positive indirect network effects. Economic theory typically makes simplifying assumptions to gain a better understanding of some of the economic forces at play in such environments. For real-world analyses, it is important to keep in mind that it is part of the ingenuity of many intermediaries that they have found a way to generate positive external effects on their platform. An example of this is to recommend better matches between the two sides of the market than what was previously available, even for a given pool of users. This illustrates that the strength of network effects is affected not only by the level of participation or usage, but also by the ability of the intermediary to facilitate interaction between the two sides. This ability is specific to the intermediary and may determine the success of one intermediary compared to others. In addition, decisions on how to resolve trade-offs between different user

³⁶ Shelanski, H., Knox, S. and Dhillia, A. (2017). *Network Effects and Efficiencies in Multisided Markets*. Paper submitted for OECD Hearing on rethinking the use of traditional antitrust enforcement tools in multi-sided markets. 21 – 23 June 2017.

³⁷ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE). https://www.cerre.eu/sites/cerre/files/2019_cerre_market_definition_market_power_platform_economy.pdf.

interests are also important. For example, certain restrictions on trade on a platform may be favourable to some types of users, while it may be less attractive for others.³⁸

26.9 Because network effects create interdependencies among the groups on a multi-sided platform, a feedback loop may develop when membership of one side of the platform grows or shrinks. To illustrate, assume a platform raises the price of platform access for suppliers of some goods or services. If some of those suppliers leave, the platform becomes less valuable to customers on the other side of the platform, who in turn also leave, further reducing the platform's value to the remaining suppliers, and so forth.³⁹ This feedback loop is crucial to the understanding of how multi-sided platform markets work and its importance will be highlighted in relation to the definition of the relevant market and the assessment of market power below.

26.10 Naspers suggests that the Inquiry considers the constraints that network effects have on the operations of digital platforms. Feedback loops are an important check on the operators of these platforms and or important constraints on market power. The aim of a platform is to create a frictionless experience for users on both sides, and through innovation attempt to solve consistent and recurring problems (so-called "pain points") for both sets of users.

27. Defining the Relevant Market in Multi-Sided Platform Markets

27.1 The definition of the relevant market is an important starting point for an analysis of the competitive interaction between firms and the competitive constraints faced by firms. The boundaries of the defined market are used to assess whether a specific firm enjoys market power, typically by looking at market shares. Furthermore, market definition is relevant to identify barriers to entry, which, in turn, are important to assess the market power of incumbent firms.⁴⁰

27.2 In relation to two-sided platforms, defining the market raises a number of issues that are not prevalent in traditional markets. For instance, an important question that arises is whether the relationship between the platform and the respective sides of the market can be considered separate markets, or whether a single market exists. A further question is whether a market can be viewed in isolation of the other side, or whether the interplay between the different sides of the market should be taken into

³⁸ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

³⁹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

⁴⁰ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

account. Another issue is how one treats a side of the platform that does not need to make a monetary payment to consume the platform's service (i.e. effectively a zero price).⁴¹ Furthermore, it is standard practice in a traditional competition analysis to include two products in the same relevant market if a small but significant non-transitory increase in the price ("**SSNIP**") of one product would result in a substantial switch of customers to the other product (so as to provide a competitive constraint). However, since two-sided platform markets can offer complex and interrelated products, this task becomes more complicated. Owing to these complexities, it is advisable that the Commission considers the complexities inherent in these types of markets and does not resort to simply applying traditional tests or assumptions when making such determinations.

- 27.3 As is standard practice in any competition analysis, for market definition and the assessment of market power of a two-sided platform, it is essential to investigate the substitutability of the different services offered by a two-sided platform with the services available elsewhere. Such alternatives may be a marketplace on which products are being exchanged without an active intermediary. This, however, requires a case-by-case analysis of whether the non-intermediated trading opportunities constitute good or bad substitutes to the intermediated trade in question. For example, an e-commerce platform (e.g. Takealot) may compete with the websites of traditional retail outlets (the latter providing only its own offerings but also possibly providing search tools and other add-ons). Furthermore, a given platform may sell certain products as a vertically-integrated seller and provide intermediation services to other sellers. In this situation, the buyer side of the market may perceive such vertically-integrated offers as good substitutes for those products offered by independent sellers.⁴² Each of these issues is discussed in more detail below.

Single-market vs multi-market approach

- 27.4 In the context of two-sided platforms, competition practice can follow two different approaches to market definition. Firstly, under the "*multi-markets approach*", a market is defined for each side of the platform. Thus, each of the markets can be analysed separately, while taking into account that they are linked through cross-group effects. Alternatively, under the "*single-market approach*", a single market is defined for an

⁴¹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

⁴² Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

intermediation service offered to both sides of the market.⁴³ Crucially, the choice of approach could have a decisive impact on the outcome of the analysis.

27.5 The choice of following the single-market or multi-market approach has been extensively debated in the economic literature. For instance, in a 2018 publication by the OECD⁴⁴ authors such as Filistrucch, and Wismer & Rasek share their views on this issue. Their overarching argument is that the choice of approach depends crucially on the type of two-sided market under investigation. Broadly, the authors note that:⁴⁵

27.5.1 In two-sided *non-transaction* markets, one should define two (interrelated) markets.

27.5.2 In two-sided *transaction* markets⁴⁶, one should define only one market.

27.6 Franck & Peitz (2019) take issue with this approach, however, noting that: “*It is not only that a multi-markets approach is always appropriate; the single-market approach is typically not.*”⁴⁷ In particular, the authors first note that there is no sharp dividing line between transaction markets and non-transaction markets, as transaction and non-transaction platforms may offer substitutable services to both sides of the market. The authors go on to note that matching platforms may compete with vertically-integrated firms. Moreover, an e-commerce retailer may compete with an intermediary running a marketplace. Consumers could choose between the integrated offer by Takealot versus offers on Facebook Marketplace. More generally, a platform may tightly control access to the platform on one side, compared to a marketplace approach in which non-discriminatory fees determine the offerings. Again, the multi-markets approach is well-suited to analysing such markets, whereas the single-market approach is not.⁴⁸

⁴³ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

⁴⁴ OECD. (2018). *Rethinking Antitrust Tools for Multi-Sided Platforms*. www.oecd.org/competition/rethinking-antitrust-tools-for-multi-sided-platforms.htm

⁴⁵ OECD. (2018). *Rethinking Antitrust Tools for Multi-Sided Platforms*, p.42; p.57

⁴⁶ Transaction markets are platforms that facilitate transactions between customers on each side of the platform (e.g. auction houses or credit card services), while non-transaction platforms do not facilitate transactions (e.g. ‘media-type’ platforms such as radio stations and newspapers).

⁴⁷ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.25.

⁴⁸ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.25.

The authors also present a further example in relation to ride hailing platforms. They note the following: “These platforms (ride hailing platforms) satisfy the definition of a transaction platform (where, in contrast to the standard merchant–buyer examples, the platform fully controls prices on the driver and the passenger side). We could then define a transaction market consisting of all ride-hailing platforms available in a geographic market. Drivers are attracted to the platform to earn a payment from transporting passengers – the more passengers are active, the

- 27.7 Franck & Peitz (2019) go on to note that if only transaction platforms coexist (as opposed to non-transaction platforms), offering services that facilitate transactions between two sides, these offers may compete with vertically integrated offers on one side. Adopting the single-market approach in these cases may lead to neglecting close substitutes on one side of the market, which merely shows that there is not a single market, since substitutable product offerings are different for the two sides.⁴⁹
- 27.8 Ultimately, Franck & Peitz (2019) conclude as follows: “...*the limitations and conditions under which a single-market approach could be considered feasible are so severe – and, consequently, the risks of creating false positives – that, as a general guidance, courts and authorities are well advised to consistently base their analysis on a multi-markets approach. The linkage between those markets through cross-group effects should be considered separately, in particular when assessing if a firm enjoys market power. [emphasis added]*” In other words, competition authorities should use a multi-markets approach when defining markets in the context of two-sided platforms, as this allows for more flexibility and more naturally accounts for different substitution possibilities by the user groups on the two sides of the platform. Indeed, the authors’ view that the single-market approach is typically unsuitable for competition analysis is in line with the views expressed in Katz and Sallet (2018); and Katz (2019).⁵⁰
- 27.9 Irrespective of the approach taken, it is crucial to consider both sides of the market when assessing the competitive constraints faced by two-sided platforms.⁵¹ Naspers fully supports the notion that the Inquiry must approach all such matters with an open mind.

Independent vs. interdependent markets

- 27.10 As discussed above, cross-group externalities should be taken into account when considering the market definition in the case of two-sided markets. To substantiate this argument, Franck & Peitz (2019)⁵² consider three cases: (i) platforms with cross-

more attractive the platform; passengers are attracted by the availability of drivers. However, passengers have a number of substitution possibilities: they may rely on a classic taxi service, use their own car, use public transport, or walk. These are not the substitution possibilities available to a driver. Thus, market conditions on both sides may be drastically different and it is not clear what the single market for a transaction service stands for.”

⁴⁹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.26.

⁵⁰ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.28.

⁵¹ See Bishop, S. and Walker, M. (2010). *The economics of EC competition law: concepts, application and measurement*. London: Sweet & Maxwell, p.420.

⁵² Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

group external effects in one direction only; (ii) platforms with mutual positive cross-group effects; and (iii) firms competing against two-sided platforms. Analysing these hypothetical cases using a single-market approach (i.e. assuming the markets are independent) they show that in each of the cases the market power is either over- or underestimated, and that by taking the interdependency of the market into account, a more accurate conclusion on market power can be made.

- 27.11 In the first case, there are economically significant cross-group external effects in one direction, but not the other. Whether a market on one side can be analysed in isolation depends on whether or not this side exerts an external effect on the other side. Only if this is not the case, is it appropriate for competition purposes to disregard feedback effects (since they are negligible). Situations can arise in which the activities of one side do not form part of the decision matrix of users on the other side, concerning if and how much to use the platform. For instance, readers of print newspapers may be indifferent with respect to the amount of advertising included in a newspaper. In this case, profit-maximising platforms make their decision on the advertiser side regarding ad volume and ad price independently of what is happening on the reader side. Given such a scenario, it may be tempting to investigate the advertising opportunity offered by platforms as an independent market.⁵³
- 27.12 However, when considering market power, it may be necessary to look beyond the advertiser side. For example, consider the case of the assessment of a merger following a multi-market approach. As a first step, one may consider the effect of the merger on the advertising market in isolation and find that, for instance, the merger is likely to raise advertising prices. However, there may be partial or full pass-through of profits obtained on the advertiser side leading to efficiency justifications in the form of lower prices or better quality to consumers. This implies that whenever cross-group effects are important (i.e. when an undertaking can be classified as a two-sided platform), looking at one market in isolation can at most be a first step, even in cases where the activity on one side of the market does not generate cross-group external effects on the other side of the market. This will have to be followed by an analysis of the impact of performance in this market on the market outcome on the other side.
- 27.13 In the second case the authors consider, there are mutual positive cross-group effects. When there are mutual cross-group effects, the impact on both sides of the platform must be considered simultaneously. The authors analyse a situation where

⁵³ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

a platform with mutually positive cross-group external effects competes with a vertically-integrated firm: the hypothetical case of a two-sided e-commerce platform providing an intermediation service⁵⁴ that competes with an online retailer that sells directly to consumers. Assume that the e-commerce platform charges both sellers and buyers for access, and that there is then a subsequent increase in the price charged to buyers. Ignoring the interdependency of the seller and buyer markets, the online retailer limits the market power of the e-commerce platform and it is possible to determine the number of buyers lost due to the price increase, assuming the number of sellers remains unchanged.

- 27.14 However, the drop in the number of buyers makes the e-commerce platform less attractive to sellers, and given the price charged from them, the number of sellers will also decrease. This will, in turn, make the e-commerce platform less attractive to buyers. The e-commerce platform therefore loses more sellers due to this feedback effect than would have been the case if the markets were considered in isolation. As such, the original analysis which ignored the seller and buyer markets' interdependency, overestimated the pricing power of the e-commerce platform. Based on this, the authors conclude that to assess market power, a demand analysis that ignores the interaction between sellers and buyers can be used as a screen in a first step, but that the determination of market power requires a second step where the interactions are taken into account.
- 27.15 Furthermore, certain business practices imposed on one side of a platform, but which affect demand on the other side, will lead platforms to adjust their overall price- and non-price strategies in both markets. An approach that ignores the interdependency between the sides of the platform will not account for these.
- 27.16 Finally, the authors consider the case where the online retailer is the subject of the investigation, rather than the two-sided platform. They find that, even in this reverse situation, it may be necessary to consider that the two-sidedness of the business models of competitors may limit the market power of a company that has itself chosen a traditional one-sided business model. Thus, while a simplified analysis can act as a screen, the determination of market power requires an in-depth analysis which takes into account the multi-sidedness of competitors' business models. This insight is important when conducting a SSNIP test.

⁵⁴ In other words, here the sellers on the platforms do the selling. In reality, the e-commerce platform may provide certain services that are needed for the ordering and delivering of products and charge the sellers for these; the e-commerce may also offer and charge consumers for add-ons such as speedy delivery.

- 27.17 Based on their analyses of the hypothetical cases, Franck & Peitz conclude that the market definition must not (finally) decide on whether or not pro- and anti-competitive effects, or the welfare effects on different groups of consumers, can be balanced.

Markets without a price

- 27.18 Markets without prices, often called ‘zero-price’ markets, have become widespread in multi-sided platforms. In such markets goods or services are usually provided to one side of the market without charging a monetary price, in order to induce them to use the platform. In other words, “...*the price structure matters, and platforms must design it so as to bring both sides on board*”.⁵⁵ From a static perspective, this means a platform can charge users for transactions conducted on the platform. This can either be levied entirely on the seller, meaning the consumer experiences the use of the platform as ‘free’, or the price can be divided between consumers and sellers in some other way. In the former case, one side can access the platform without incurring a monetary cost. This is especially likely in instances where one side of the market is essential for the market to operate (e.g. where the platform must attract users in order to also attract sellers or advertisers). In these zero price markets, customers do not pay a monetary price, but do pay a “non-monetary price”.⁵⁶ In other words, consumers ‘pay’ with their attention. This is the case where advertisers are on one side of the platform and pay for access to this attention.⁵⁷
- 27.19 Zero prices can also occur in instances where technological constraints do not make it feasible to monitor the access and use of a platform on one side. When this is the case, platforms may simply forgo charging access or use fees, and instead levy the charge entirely on the other side of the market. Sometimes, prices are regulated so as to be zero. This is, for example, the case with net neutrality regulations in the US, where internet providers cannot charge content providers to deliver their content.
- 27.20 Aside from these static views on zero prices, there are also a variety of dynamic considerations. It may be the case that a platform decides to implement a zero price to attract consumers and build network effects, thus building a large enough user base

⁵⁵ Rochet, J. C. & Tirole, J. (2003). Two-sided markets: A Progress Report. *The RAND Journal of Economics* 37(3), p.645-667.

⁵⁶ Frank & Peitz (2019), p. 46.

⁵⁷ Just (2018: p.387) also argues that prices in zero price markets reflect the presence of indirect network effects.

to convince those who join later that it is worth paying for. Platforms may sometimes transition to charging a positive price and offer upgraded services in future.

- 27.21 Zero prices may also be charged independently of network effects. When there are switching costs to moving to another platform, it may also be that users accept the initial zero price offer knowing that it will lead to lock-in. This is often the case where platforms offer free access to premium features for several months, knowing that many consumers will then pay after the offer has ended.
- 27.22 In case law, zero prices have been interpreted in several different ways. For instance, cases in the European Union ("**EU**") seemed to approach markets where one side did not pay as instances where competition policy did not apply to that market. As Frank & Peitz (2019) note, "*...the underlying policy argument to legitimise this approach would seem to be that the interests that competition law is meant to protect are properly taken care of by focusing on those "sides" of a platform market where monetisation takes place*".⁵⁸
- 27.23 The EU approach to zero-price markets has since evolved. In the context of digital markets, it has been accepted that monetary compensation is not a necessary characteristic of a market.⁵⁹ This is echoed in the literature. Just (2018) argues that "*Competition policy needs to move further away from its traditional price-oriented emphasis and increasingly focus on non-price competition, (and) on attention markets and zero prices...*".⁶⁰ This might mean that, particularly in instances where there are zero-price markets, it is necessary to consider alternatives to traditional price-based market definition tools like SSNIP tests.
- 27.24 Naspers supports the development of economic theory to meet the evolving characteristics of markets. Many of Naspers' businesses operate on a zero price basis, some have pay walls, and others charge for certain services such as delivery. Thus, Naspers is cognisant of the fact that there may not be a one size fits all solution to these issues. What is required is careful consideration of the actual operations of digital businesses. These considerations may result in traditional theories fitting to a particular business model in some cases, not being appropriate in others. Naspers encourages all its businesses to fully engage with the Inquiry, so that the Inquiry can

⁵⁸ Bishop, S. and Walker, M. (2010). The economics of EC competition law: concepts, application and measurement. London: Sweet & Maxwell, p.420. OECD (2018). Rethinking Antitrust Tools for Multi-sided Markets, p.13, p.73-74; Frank & Peitz (2019), p.48.

⁵⁹ See for example European Commission 24 March 2004, COMP/C-3/37.792, Microsoft, paras 402–425 and European Commission 16 December 2009, COMP/C-3/39.530, Microsoft, paras 17–22

⁶⁰ Just, N. (2018). Governing online platforms: Competition policy in times of platformization. *Telecommunications Policy*, 42(1), p.386-394.

fully understand how the businesses operate and generate revenue. This will assist in ensuring that the correct determinations are made when assessing these markets.

Applicability of the SSNIP test (or SSNDQ test) in multi-sided platform markets

- 27.25 Historically, competition authorities across the world have emphasised price as the salient dimension of competition, even though it is only one of many metrics through which competition in markets can be defined. The emphasis on price is so standard that markets are usually delineated by considering the demand and supply responses to a SSNIP, usually 5% - 10%.
- 27.26 Even in markets where only one side is charged a price, there is still scope for the SSNIP test to be applied, because “...*the zero price is just one element of the price structure that the platform sets for its single product (the transaction)*”.⁶¹ There is, however, the challenge that a market where no price is charged cannot be *measured* with a SSNIP test, since any change in price would then be exponentially large.
- 27.27 This test is not necessarily the most suitable way to define a market, however, as is well evidenced by the discussion of zero price markets above. This implies that there must be competition along some other dimension, such as quality.⁶² Beyond a simple consideration of price competition, the importance of innovation and the quality of services delivered to users have been affirmed in several merger decisions.⁶³ It seems therefore that the focus on non-price dimensions of competition will continue.
- 27.28 In light of the need to define markets where non-price metrics of competition play an important role in outcomes, several novel and previously less popular empirical techniques have been developed. Perhaps the most popular of these tests is the Small but Significant Non-transitory Decrease in Quality (“**SSNDQ**”) test. The intuition for this test is largely similar to the analogous SSNIP test, but it considers quality, rather than price. There is also the obvious hurdle that quality in terms of, for example, privacy, cannot be measured in the same 5%-10% range that is used when measuring price. The OECD⁶⁴ suggests that the application of such a test would thus be less iterative and involve less objectively defined criteria than the SSNIP test but would

⁶¹ OECD. (2018). Rethinking Antitrust Tools for Multi-Sided Platforms

⁶² Just, N. (2018). Governing online platforms: Competition policy in times of platformization. *Telecommunications Policy*, 42(1), p.386-394, p.388.

⁶³ See for example Microsoft/Skype (COMP/M.6281, 2011) or Microsoft/Yahoo! Search Business (COMP/M.5727, 2010).

⁶⁴ OECD (2013). *The Role and Measurement of Quality in Competition Analysis*. Policy Roundtables. Paris: OECD. <http://www.oecd.org/competition/Quality-in-competition-analysis-2013.pdf>.

rather serve as a conceptual guide. This test was most famously applied in Qihoo 360 vs TenCent in the Supreme People's Court of China.⁶⁵

27.29 Aside from the SSNDQ test, other empirical tools have also been developed to aid market definition. Tremblay (2017) created an adapted Lerner Index to measure market power, avoiding problems often encountered with data in the assessment of digital platforms. This index considers economic profitability by calculating the platform's total (economic) profit, plus fixed cost, all divided by the platform's total revenue.⁶⁶

27.30 Overall, Naspers submits that new empirical tools for market definition suggest that it is necessary to take a holistic view of platforms and multi-sided markets, rather than simply relying on traditional techniques.

Multiple markets on one side of the platform

27.31 According to the multi-markets approach, an intermediary may offer intermediation services on each side of a platform. However, in some cases, the intermediary offers intermediation services for different products and caters to some heterogeneous user groups on each side of the platform. This observation is not necessarily restricted to platforms: for instance, e-retailers may typically offer a wide variety of products to heterogeneous consumers.⁶⁷

Multi-purpose platforms

27.31.1 Some e-commerce platforms may make offerings in multiple product categories and consequently consumers may have access to numerous products in different product categories, offered by a variety of vendors. An intermediary who offers intermediation services to consumers may operate in multiple markets, offering intermediation services for different product categories.

27.31.2 For example, an online platform may carry a large variety of different product categories. Each may be considered a separate market if users visit in search of a product in a certain category. For instance, a consumer that wants to purchase kitchen appliances online may search via online platforms or via some

⁶⁵ Evans, David S., and Vanessa Yanhua Zhang. 2014. "Qihoo 360 vs Tencent: First Antitrust Decision by The Supreme Court." *Competition Policy International*, October 20, 2014. <https://dev.competitionpolicyinternational.com/qihoo-360-v-tencent-first-antitrust-decision-by-the-supreme-court/>.

⁶⁶ Tremblay, M. (2017), Market Power and Mergers in Multi-Sided Markets. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2972701.

⁶⁷ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

online store such as the one provided by a physical store. Market conditions may be very different compared to somebody looking for an entirely different product altogether (such as office stationery), as alternative channels through which such items can be purchased may be different. Moreover, if consumers tend not to search for kitchen appliances and office stationery at the same time, there may be independent markets for the intermediation service for office stationery and kitchen appliances.⁶⁸

Regional markets

27.31.3 Digital platforms may scale up and serve a whole country and, in some cases, multiple countries. User behaviour on the two sides of the platform may be decisive for whether there are multiple regional markets on each side.⁶⁹

27.31.4 Franck & Peitz (2019) use the example of a dog-sitting platform, which caters to dog owners and dog sitters. These are typically local markets from the dog owner's perspective, as she is seeking somebody to do the dog sitting in her hometown and uses the platform to find a match. These are also local markets from the dog sitter's perspective as she is unlikely to change town to be able to do the dog-sitting somewhere else. Thus, there are multiple regional markets on each side.⁷⁰

One-stop vs. multi-stop shopping

27.31.5 Markets may need to be considered in connection with each other if consumers substitute between product categories or buy bundles. The issue is similar to shopping in physical stores. If one-stop shopping is predominant, markets for different product categories that consumers consider buying may be interdependent. For the consumer, in e-commerce, since there are no physical transport costs and checking out is simpler online than offline, there are reasons to expect less one-stop shopping than in offline retailing. However, lower delivery costs per unit may be a reason for consumers to prefer one-stop shopping. Whenever there are successful specialised shops, this suggests that (unless there are other advantages of being specialised) at least an important fraction of consumers are not one-stop shoppers or consider only very specific

⁶⁸ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

⁶⁹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

⁷⁰ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

product categories because otherwise specialised shops would be at a disadvantage. Understanding purchase behaviour is essential to identify which intermediation services provided to consumers are interdependent and which ones are independent.⁷¹

- 27.31.6 This is another consideration Naspers considers to be vital for the Inquiry to take into account.

Market definition and homing decisions

- 27.32 According to the multi-markets approach, there may be at least one market for each user side of a two-sided platform. The question of whether there is one market on each side or multiple markets on each side, may depend on the homing decisions of users. The market definition exercise may therefore need to take the degree of single-homing and multi-homing by platform users into account.

- 27.33 In multi-sided markets, pricing and market outcomes may depend, among other things, on whether customers choose a single platform (single-homing) or use more than one platform simultaneously (multi-homing).⁷² The economic literature makes the following distinction between single-homing and multi-homing: A user single-homes if he makes a discrete choice between the offerings provided by platforms, and possibly other providers of substitute services. For example, a reader that decides which newspaper to subscribe to and has demand for up to one subscription is a single-homer. If user behaviour on one side is well described by single-homing, it implies that there is one market on this side of the platform.⁷³

- 27.34 A user multi-homes if they decide to consume multiple offerings. The degree of multi-homing on one side of the platform may be relevant not only for the substitutability between platform services in this market, but also for the substitutability between platform services on the other side. Multi-homing decisions may often depend on the degree of multi-homing decisions on the other side of the platform. For example, in the context of two rival ride-hailing apps, if most drivers offer their services (at any point in time) on both apps, there is likely to be little gain for travellers from using both apps simultaneously. Thus, travellers have weak incentives to multi-home. By contrast, if most drivers single-home, it is more beneficial for travellers to multi-home

⁷¹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

⁷² OECD (2018) Rethinking Antitrust Tools for Multi-Sided Platforms, p.60.

⁷³ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.54.

(i.e. to check for transport offers on both apps). The degree of multi-homing may also be affected by contractual clauses imposed by platforms (e.g. exclusivity clauses).

- 27.35 If users on one side of the platform multi-home, while users on the other side of the platform single-home, it may in some cases be appropriate to define a monopoly market on the multi-homing side. This is because the platform may be seen as the gatekeeper to its single-homing users. In other words, each platform provides monopoly access to its set of users on the single-homing side. This suggests that there may be a market for each platform regarding the service provided to the multi-homing side. For example, based on this theory, it has been claimed that Apple abuses its monopoly power over the iPhone app distribution market, by hindering developers from selling their apps directly to consumers at a lower price or via other distribution channels. This rests on the assumption that consumers are single-homers, as they make a discrete choice of either using a device based on Apple's or Android's mobile operating system (while app developers tend to be multi-homers).⁷⁴
- 27.36 However, it is important to note that the monopoly power in such a market may be mitigated through interaction with the other user group (e.g. large parts of the revenues generated on the monopolised side may be passed to the users on the other side). Moreover, if a platform competes fiercely with other platforms for single-homing customers, which limits the platform's market power, it might also be appropriate to include all of these platforms in one market. In such cases, it would be advisable to try to investigate the customers' rationale for multi-homing. Multi-homing may reflect product differences, whereas single-homing may indicate that platforms are bottlenecks.⁷⁵
- 27.37 Generally, all the Naspers platforms allow multi-homing on both sides of the platform. Naspers sees no benefit in restricting consumers or suppliers to a particular platform. Naspers is of the view that if companies continue to innovate and create a superior experience that users will continue to make use of the platform by choice. In some respects, multi-homing allows consumers to vote with their feet. The Naspers business units are acutely aware of the ease with which consumers can switch from one platform to another. This keeps businesses focused on creating a frictionless experience and continually improving on their offering.

⁷⁴ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.54.

⁷⁵ OECD (2018) Rethinking Antitrust Tools for Multi-Sided Platforms, p.61.

International competition

- 27.38 The Commission⁷⁶ has previously noted that in digital markets, there are established firms in other jurisdictions that have superior technology and financial resources and are multiple times the size of their South African counterparts. Having reached scale in other markets, these global counterparts have ready-built technological platforms and business models that can be leveraged to reduce the costs of entry into new markets. These firms also may have a cash positive business which can fund new country expansion or find investor support to do so. Importantly, the Commission noted that the advantages of these global firms make them strong potential entrants into developing country markets, despite their late entry and the strength of local platforms in some cases.
- 27.39 One example is the entry of Facebook Marketplace. In the past, Gumtree has been OLX's main horizontal classifieds competitor. OLX's success in challenging Gumtree was halted by the entry of Facebook Marketplace into the classifieds market in South Africa in 2018. Facebook Marketplace achieved exponential growth in the market, which came at the cost of existing players and could not be matched through organic growth. Both OLX and Gumtree saw a substantial decline in both content and audience with the entry of Facebook Marketplace. Facebook Marketplace was able to leverage the loyalty and trust from its social network operations to its classifieds offering, quickly becoming the largest horizontal classifieds platform operating in South Africa.
- 27.40 Facebook Marketplace has been able to grow at this pace because it has three key advantages.⁷⁷ Firstly, it has a large global organisation, with many world class engineers and vast access to data, allowing it to develop its product at speed and scale. Secondly, it has distribution power to a potential 2.4 billion monthly users. Thirdly, Facebook's market power has allowed it to negotiate deals with local telecoms operators in many countries to allow customers to use Facebook without data charges (zero-rating). This illustrates how global technology firms can quickly leverage their scale to enter local markets and implies that potential competition from these firms should be taken into account when defining markets and assessing market power.
- 27.41 Naspers' approach is to invest in local teams and allow companies to operate independently. We allow local companies to develop scale in order to compete.

⁷⁶ Competition Commission of South Africa. (2020) Prepared for OECD Competition Committee Roundtable on Potential Competition (December 2020)

Unlike, for example, Facebook and Google, Naspers is not a consolidated business. Importantly, while Naspers is a large global consumer internet company, there is a nuance that distinguishes Naspers from other large technology companies. Naspers provides some of the same benefits that a large technology company provides, but also allows for independent organic and local innovation.

ANNEXURE B

PART C: Response to the contents of the Statement of Issues

1. **Scope 1 – "Evaluate trends in adoption and use of the different online intermediation platform markets, including the identification of leading platforms across each market"**

Trends in the market(s): user adoption

- 1.1 According to data from Statista, revenue in the South African e-commerce market is estimated to reach US\$4.6bn in 2021. Revenue is expected to grow at a compound annual growth rate ("**CAGR**") OF 8.2% between 2021 and 2025, and resulting in a projected market volume of US\$6.3bn by 2025.⁷⁸ Similar to other markets, the Covid-19 pandemic has acted as a catalyst for e-commerce in South Africa and growth could accelerate significantly as consumers migrate from in-store shopping to online alternatives.⁷⁹
- 1.2 According to a 2021 report by Deloitte, approximately 22 million users shopped online in 2020, with an e-commerce penetration rate of 37%. This number is expected to grow by 44% to 32 million users by 2024, and to reach 33.4 billion users by 2025.⁸⁰
- 1.3 Based on a 2020 survey conducted by Deloitte (Deloitte Africa Digital Commerce Survey), more than 70% of survey respondents indicated that they shop online at least once a month. Ongoing concerns about Covid-19 and the convenience of online shopping are key drivers of online shopping. Deloitte notes that the frequency of online shopping is likely to increase in the short term, with two in three survey respondents indicating they will shop more online in 2021.⁸¹
- 1.4 While consumers are concerned about their financial position, online growth can be attributed, at least in part, to a channel shift from offline to online shopping, due to health and safety concerns. For instance, Deloitte found that in January 2021, only 34% of South Africans felt it was safe to go to a physical store. As such, it seems that consumers will increasingly utilise a mix of in-store and online purchases across

⁷⁸ Statista. (2021). *eCommerce South Africa*. <https://www.statista.com/outlook/dmo/ecommerce/south-africa>.

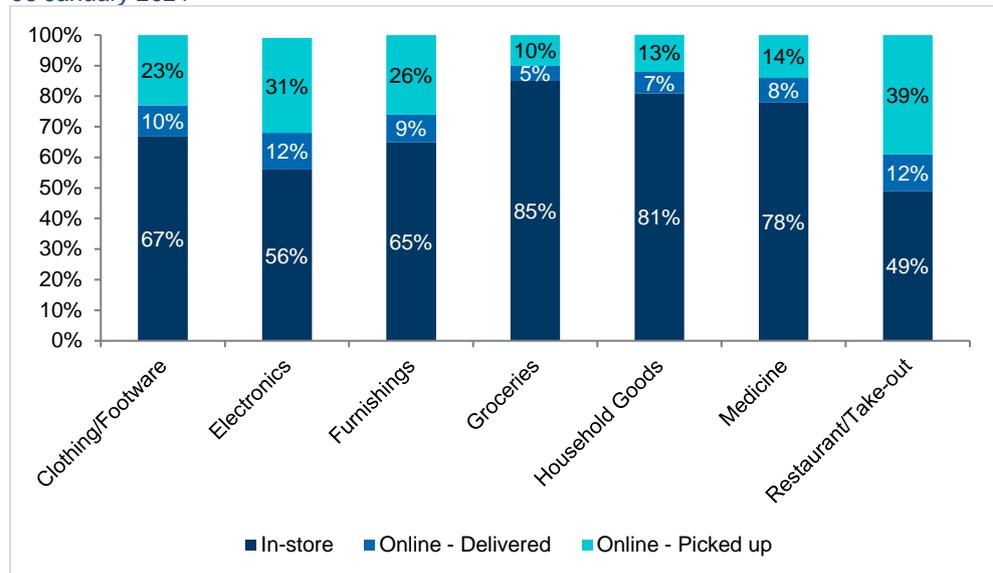
⁷⁹ Deloitte. (2021). *Digital Commerce Acceleration*, p.5. <https://www2.deloitte.com/content/dam/Deloitte/za/Documents/strategy/za-Digital-Commerce-Acceleration-2021-Digital.pdf>.

⁸⁰ Deloitte. (2021). *Digital Commerce Acceleration*. p.5.

⁸¹ Deloitte. (2021). *Digital Commerce Acceleration*. p.5.

categories.⁸² This is illustrated in Figure 1 below, which shows the intended shopping channel for consumers over the four weeks following 06 January 2021.

Figure 1: Consumers' intended shopping channel (online vs in-store), four-week period following 06 January 2021



Source: Deloitte (2021)

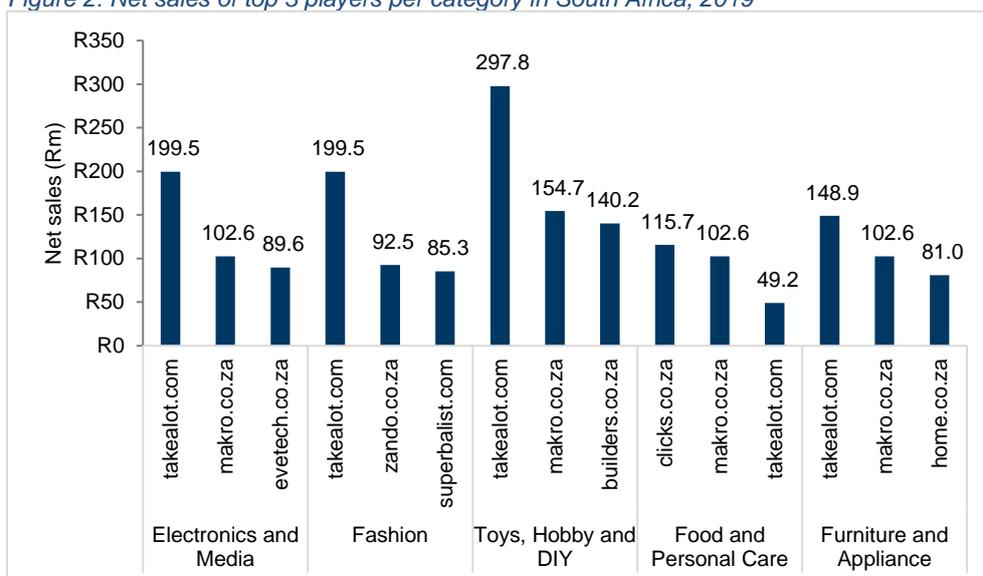
1.5 Similar to global trends, the most popular categories among South African consumers are clothing, electronics, footwear, household appliances and health products. Fresh food also features relatively highly among the top categories in South Africa.⁸³ The top 5 online stores – Takealot, Makro, Builders, Woolworths and Nike – accounted for 43% of net sales of the top 100 online stores in South Africa in 2019. While in the past few years, e-commerce was dominated by pure-play pioneers, traditional retailers and manufacturers are now investing in, and focusing on, their multi-channel (online and offline) offerings.⁸⁴ Figure 2 sets out the net local sales of the top three players, per category.

⁸² Deloitte. (2021). *Digital Commerce Acceleration*. p.6.

⁸³ Deloitte. (2021). *Digital Commerce Acceleration*. p.7.

⁸⁴ Deloitte. (2021). *Digital Commerce Acceleration*. p.6.

Figure 2: Net sales of top 3 players per category in South Africa, 2019



Source: Deloitte (2021)

1.6 Deloitte also finds that South African online shoppers use a variety of online shopping providers: between June and November 2020, South African consumers mostly used food delivery services weekly (36%), online retailers monthly (42%) and online classifieds less than once a month (34%). It was found that South African consumers are “discerning” shoppers. In particular, more than two-thirds of respondents indicated that they go to a specific online store and look for the product they want. Furthermore, shoppers engage in multi-homing, with 65% of respondents indicating that even when they knew what product they wanted, they would compare various online stores to find a suitable offer.⁸⁵

1.7 These trends are clear and are set to increase further as the rate of internet penetration increases. The rapid rise in user adoption in South Africa is in line with global trends. This user adoption will result in a larger amount of capital being invested into innovative digital companies, which will derive considerable consumer benefit. The adoption of digital technology should be seen as a positive.

Trends in mergers and acquisitions

1.8 Based on the statistics from the Commission, a total of 87 mergers in digital markets have been notified between 2011 and 2018. Of these, 82 were approved without conditions, and the remaining five were approved with public interest conditions. Notably, no conditions have been imposed to address substantive competition

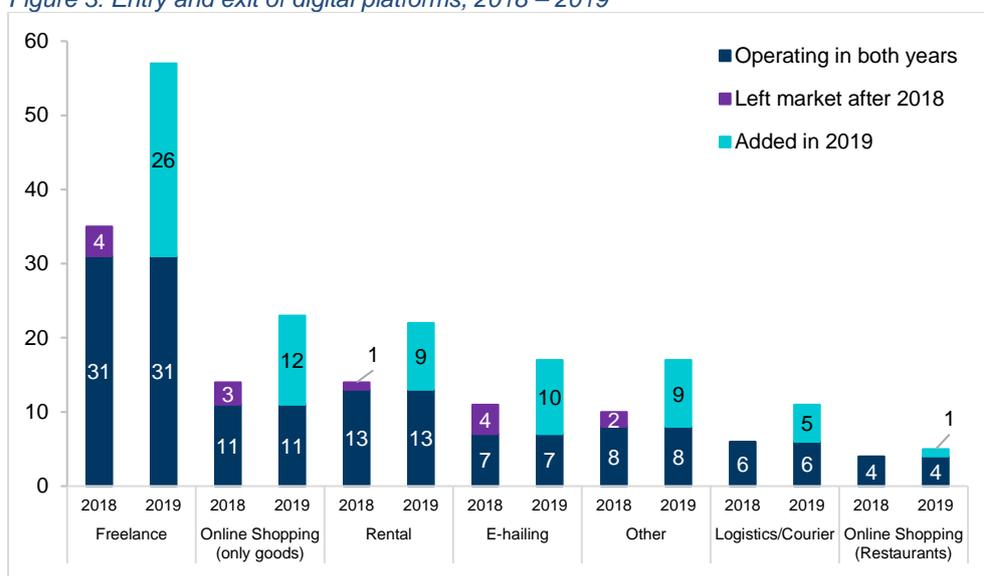
⁸⁵ Deloitte. (2021). *Digital Commerce Acceleration*. p.8.

concerns. The first merger in this space that was prohibited by the Commission was the *MIH/WeBuyCars* merger.⁸⁶

Trends in entry and exit of firms

- 1.9 Given the widespread and increasing adoption of digital platforms, it is reasonable to expect that there are many firms entering the market. Figure 3 illustrates the entry and exit of firms between 2018 and 2019, across a variety of digital platform categories. The figure shows that while some firms have exited the market, numerous firms have entered the various digital platform markets. As user adoption increases, there will be more companies wanting to enter the space and more companies will develop as they seek ways to address consumer demands.

Figure 3: Entry and exit of digital platforms, 2018 – 2019



Source: Cenfri (2020)⁸⁷

Market power

- 1.10 The assessment of market power is an essential element in many competition analyses. A number of indicators can be used to assess market power. However, Naspers is of the view that particular care is needed when dealing with two-sided platform markets, as the markets on the two sides are linked (as discussed above) and an assessment of the overall market power of a platform has to take this link into account.⁸⁸

⁸⁶ LM183Sep18/DSC065Jul19.

⁸⁷ Cenfri. (2020). *The scale and usage of digital platform ecosystems in Nigeria, Kenya and South Africa*. <https://cenfri.org/articles/scale-and-usage-of-digital-platform-ecosystems-nigeria-kenya-south-africa/>

⁸⁸ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.69.

- 1.11 Note that a platform may have market power in both the market in which sellers try to find buyers, and in the market in which buyers try to find sellers, but that it may be the case that a platform has market power on only one of those sides.⁸⁹ In Naspers' view, it is important to note that competitive constraints on market power in multi-sided platform markets may come directly or indirectly from any and all sides of a competing platform. For example, if a platform tries to engage in exclusion on one side, a rival may be able to respond with strategies on the other side. This suggests the need to look at all sides of the market when assessing market power.⁹⁰
- 1.12 Furthermore, given the potential feedback effects between different sides of the market, an accurate approach may suggest measuring market power by assessing all sides of the market simultaneously. However, this is likely to be a very challenging task and may not be practical, nor possible. When the multi-sided nature of the market appears important, a reasonable and pragmatic approach is to start by using standard tools to assess market power for each side of the market separately and then to factor in the indirect network effects by using a range of evidence and judgement.⁹¹
- 1.13 Broadly speaking, a firm's position in the market may be described by its market share, expressed as the ratio of the firm's revenues to total revenues, as the ratios of the number of users to total number of users served on each side of the platform, or as the ratios of usage on the platform to total usage on each side of the platform. It is well documented in economic literature that the assessment of market shares to measure market power is not without problems in standard markets.
- 1.14 This is indicative that market share data alone is not particularly reliable for insights into the extent of competition between different platforms. The digital landscape is rapidly changing, with new entrants, technological advancements and offerings for consumers. As such there needs to be caution around unwarranted regulation in this pace. Network effects, multi-homing behaviour, and the requirement to establish a reliable and trustworthy platform, result in online platforms facing significant competitive constraints. There are additional issues that arise in the context of two-sided markets, which are elaborated on below.⁹² Naspers encourages the Inquiry to fully and holistically consider all of these elements.

⁸⁹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE).

⁹⁰ OECD. (2018). *Rethinking Antitrust Tools for Multi-Sided Platforms*, p.74.

⁹¹ OECD. (2018). *Rethinking Antitrust Tools for Multi-Sided Platforms*, p.74.

⁹² Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.70.

Revenue shares

- 1.14.1 As discussed above, a two-sided platform market serves two user groups on two separate but interdependent markets. One possibility to assess the relative position of a platform is to calculate revenue shares. To assess the relative position of a platform in each market, one could theoretically use revenue shares derived on each side. However, this approach should be carefully considered.⁹³
- 1.14.2 Firstly, if the price structure of the platform is neutral, revenue shares on one side of the market are not meaningful, as revenues on one side can be substituted one-to-one by revenues on the other side. In such cases, only overall revenue shares are meaningful. If the price structure of the platform is non-neutral, the platform will choose its price structure such that overall profitability of the platform is maximised. Again, only overall revenue shares are meaningful in this regard and revenue shares on each market serving one side of the platform does not provide a holistic view of market shares.⁹⁴
- 1.14.3 Secondly, revenue shares become meaningless if all substitute offers are zero-priced, as discussed above. If, after assessing substitution possibilities between alternative offerings on the one side, a conclusion is reached that some “zero-price” offers, as well as other offers with a positive price have to be included, the revenue shares of the “zero-price” offers will still be zero. The fact that “free” offers do not have any market share based on revenues does not provide any information.⁹⁵
- 1.14.4 Hence, it is clear that the only reasonable option is to use revenues on all sides. However, these shares should not be interpreted as typical market shares, as they are aggregated over two interdependent markets. Large revenue shares are only meaningful if all platforms under consideration serve the same sides. If some platforms make integrated offers, while others do not, or if some platforms offer certain bundles and others offer only a subset of products, such revenue shares are difficult to interpret.⁹⁶

⁹³ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.70.

⁹⁴ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.70.

⁹⁵ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.70.

⁹⁶ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p. 70.

User shares

- 1.14.5 Shares of active users (on a given platform) relative to the total number of active users (across all similar platforms) may also be used to calculate market shares. In this case, even if all firms operate as two-sided platforms, market shares should be considered on both sides separately. These market shares show the relative strengths of the different platforms, which may be different on the two sides. It is important to note that, if the usage of a platform is heterogeneous among users, it is preferable to consider usage volumes rather than number of users.⁹⁷
- 1.14.6 Shares of active users are less informative the more heterogeneous users are regarding their intensity of use, as the numbers of active users have little in common with the amount of activity taking place on a platform. In this case, it may be more useful to consider market shares of transactions⁹⁸ or proxies of overall intensity of use. In some environments, these may be data volumes⁹⁹ or

⁹⁷ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.71.

⁹⁸ For example, see Bundeskartellamt 20 April 2015, B6-39/15, Immonet/Immowelt. The authority estimated that the leading real estate platform (ImmoScout) had a share of more than 70% in transactions and considered this as evidence of market power (Bundeskartellamt (2016), p.71).

⁹⁹ For example, see European Commission 7 October 2011, Case M.6281, Microsoft/Skype, para 108. Based on data volume the Commission measured the shares in the market for video communication via the internet. But see also European Commission 2 October 2014, Case M.7217, Facebook/WhatsApp, para 97. "During the market investigation, the Commission attempted to collect additional metrics to measure the competitive importance of players in the market for consumer communications apps. However, no reliable dataset could be produced. For example, assessing the traffic volumes of consumer communications apps was impaired by the lack of data from some providers and inconsistent recording methods (for example, in relation to the number of messages sent, messages received, group messages, etc.)."

accumulated time spent on a platform¹⁰⁰ relative to numbers summed over all undertakings offering substitute services.^{101,102}

- 1.14.7 An important issue is that, depending on the prevailing homing patterns and objectives of users, comparable offerings may not actually constitute close substitutes. If multi-homing is pronounced on one side of the platform, there may be little competition among platforms for these multi-homers. Taking the market share of all comparable offers on this side (even if they turn out not to be substitutes or only very weak substitutes), then provides a lower bound on a platform's market share on this side.¹⁰³

Market dynamics

- 1.14.8 Market environments involving digital platforms are often dynamic. The number of users on one or both sides of the platform may be increasing over time. A more conservative approach to calculating market shares, is to relate the actual size of the platform on one side to the potential overall market size. In other words, one can consider the number of users active on the platform relative to the total number of active and potential users of the platform. While the latter may not be easy to estimate precisely, it may be possible to estimate a range. This applies to offers that target a sub-population with specific characteristics. In this sense, a large ratio of the number of active users to the total number of active and potential users may be seen as an indication of market power.¹⁰⁴

¹⁰⁰ For example, Competition authorities often refer to the number of unique visitors, i.e. the number of contacts by different devices (identified by an IP address) during a standard period of time, typically a month, as an indicator for the intensity of platform usage. See, e.g., Bundeskartellamt, 22 October 2015, B6-57/15, Parship/Elitepartner, paras 132–133; Case summary, p. 4 (“unique (monthly) visitors” as a “possible key figure”). See also Bundeskartellamt, 6 February 2019, B6-22/16, Facebook, Case Summary, p.6 (“The Bundeskartellamt considers the number of daily active users as the key indicator and relevant measurand for assessing the network’s competitive significance and market success as a social network’s success is measured by the intensity of use”); see, in detail, paras 390–413. See also Bundeskartellamt 8 September 2016, B6-126/14, Google/VG Media, paras 154–155 (Google’s market shares calculated on the basis of search queries are clearly important in regard to Google’s position in the market for search advertising).

¹⁰¹ Note that Competition authorities do not always lay down which parameters they consider best suited for calculating market shares. For example, in the Google Shopping case (27 June 2017, COMP/AT.39740, Google Search (Shopping)), the European Commission used market shares “by volume” to demonstrate Google’s dominant position in the national markets for general search services, stating that “[t]here are several methods to calculate market shares by volume”, including “per number of queries, users, page views or per number of sessions” (id., para. 276 with note 271). The Commission did not engage in a discussion on the relative informative value of these parameters but left it to the statement that “[a]ll the methods indicate that since 2008, Google has enjoyed high market shares in all the relevant general search markets across the EEA, except for the Czech Republic”. More specifically, the Commission then referred to market shares calculated based on page views and site visits (id., paras 277–279).

¹⁰² Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.71.

¹⁰³ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.71-72.

¹⁰⁴ Franck, J., & Peitz, M. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.72.

- 1.14.9 Given the dynamic nature of digital markets, it is often difficult to delineate these markets. While at times companies may seem "dominant", the dynamic nature of technological advancements in these markets results in continuous change.
- 1.14.10 For instance, in the 2014 *Facebook/WhatsApp* merger, and despite its finding that the merging firms had a 30-40% EEA-wide market share in the market for consumer communications apps for smartphones, the European Commission ("EC") found that, "[i]n such a dynamic context, high market shares are not necessarily indicative of market power and therefore lasting damage to competition."¹⁰⁵
- 1.14.11 This was also recognised in the 2011 *Microsoft/Skype* merger, where the EC determined that even a 90% share (in the market for video calls) did not pose competition concerns, given the specific market dynamics regarding innovation and entry barriers. In that case, the EC pointed out that Viber attained one million customers within three days, and 15 million customers within five months.¹⁰⁶
- 1.14.12 Indeed, "...[n]ew disruptions flow from many unexpected quarters as innovators launch ground-breaking products and services while devising new ways to construct cheaper and more efficient versions of existing technologies. Change has been constant, uneven, and highly disruptive, but it has also led to the progress and innovation seen flowing through the information sector over the past two decades".¹⁰⁷

Profitability

- 1.14.13 As an alternative to using market shares, economic profits can be used to assess market power directly. Competition authorities recognise that a firm's ability to profitably increase prices beyond competitive levels indicates that the firm may act independently from constraints by competitors and customers, and that it therefore enjoys market power. However, this method is not without difficulties as it can be challenging to identify the appropriate competitive benchmarks. For instance, firms are often active in many markets and, hence, profits would need to be allocated to these different activities.¹⁰⁸ Further

¹⁰⁵ m7217_20141003_20310_3962132_EN.pdf (europa.eu), p.18.

¹⁰⁶ m6281.doc (europa.eu), p.20-25.

¹⁰⁷ Brent Skorup & Adam Thierer, *Uncreative Destruction: The Misguided War on Vertical Integration in the Information Economy*, Federal Communications Law Journal 65, no. 2 (2013), p.180.

¹⁰⁸ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.86.

evidence that would need to be considered in this context relate to, for example, whether high profit levels reflect the recovery of R&D investments not included in a given measurement of cost.¹⁰⁹

- 1.14.14 Stable large profits over time could be a signal of persistent market power, but the time horizon used for this assessment should reflect the characteristics of an industry (i.e. its susceptibility to rapid shifts). Additional context is needed to understand whether, during this time a firm has introduced significant new features or innovations to maintain its position in the market given competitive pressures (although such changes may have registered in changes to profits if they required substantial investments).¹¹⁰
- 1.14.15 Care should also be taken in ensuring that economic, rather than accounting, profit measures are used.¹¹¹ Accounting profits are the difference between revenues and accounting costs, while economic profits are the difference between revenues and economic costs. The latter, *inter alia*, includes a market rate of return on capital.¹¹²

Single-homing vs multi-homing

- 1.14.16 The extent to which customers on one side of the market single- or multi-home affects the choice of customers to single-home or multi-home on the other side of the market. Examining the extent of single- or multi-homing on either side can provide an indication of market power on either side.¹¹³
- 1.14.17 Businesses benefit from being listed on more than one platform if they can play the platforms off against each other, or if listing on more than one platform expands the number of consumers in aggregate. On the other hand, if some consumers single-home to platform A and others single-home to platform B, then businesses will find it necessary to use both platforms to reach both sets of consumers. Single-homing by different groups of consumers, and multi-homing by none, can lead to market power for each platform.¹¹⁴ Multi-homing implies low switching costs which serves as a constraint on the exercise of market power.

¹⁰⁹ OECD (2020). Abuse of dominance in digital markets, p.18.

¹¹⁰ OECD (2020). Abuse of dominance in digital markets, p.18.

¹¹¹ OECD (2020). Abuse of dominance in digital markets, p.18.

¹¹² Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE) p.86.

¹¹³ OECD. (2018). Rethinking Antitrust Tools for Multi-Sided Platforms, p.76.

¹¹⁴ OECD. (2018). Rethinking Antitrust Tools for Multi-Sided Platforms, p.76.

1.14.18 Multi-homing on the Naspers platforms is not prevented by any contractual barriers or capacity constraints. The contracts concluded by Property24, for example, do not contain exclusivity clauses with regard to classifieds listings, and their durations tend to be relatively short. Moreover, the cost that an advertiser would incur as a consequence of multi-homing, rather than single-homing, is extremely small relative to their revenue earned from the sale of the product. This suggests that many of the competition concerns are eliminated.

Entry barriers and potential competition

1.14.19 Market power could also be the result of entry barriers in a market, and thus an analysis of entry barriers can provide an indirect indication of dominance. In particular, a dominant firm may be insulated from competitive pressure because entry barriers prevent rivals from entering and undercutting it. While this logic is straightforward, it can be challenging to identify exactly what constitutes an entry barrier in a market. Further, it is not on its own determinative of a dominant position, as even in markets with entry barriers, a sufficiently strong actual or potential competitor could impose a constraint on the firm in question.¹¹⁵ The existence of entry barriers in the context of multi-sided platform markets is elaborated on below.

1.14.20 Access to financing for potential entrants is not generally considered a barrier to entry, as any firm would require funding to enter a market. Entry barriers can provide some indications of whether a firm faces the threat of competition in a market, depending on the strength of both the barrier and the *potential* entrant. This reflects the insight that even if a firm holds a large market share, the threat of potential competition may limit their ability to exercise market power beyond the short term. This potential entry may come from a small, disruptive start-up firm, although this threat may have a limited effect on disciplining the exercise of market power in the short run. The existence of established potential rivals may, however, be a more effective constraint when there are significant barriers to expansion. If the rivals operate in similar markets, or have the assets needed to participate in the market in question, a firm's dominance may be undermined.¹¹⁶ There is a large amount of capital, and a willingness on the part of investors to invest in companies that operate within the digital space.

¹¹⁵ OECD (2020). Abuse of dominance in digital markets. p.17.

¹¹⁶ OECD (2020). Abuse of dominance in digital markets. p.18.

Data

- 1.14.21 A firm's access to data could be seen as providing it with market power. Incumbent firms may amass large datasets and use those datasets to enter other markets with a significant advantage. In this respect, it is interesting to note that recent amendments to the German Competition Act have added access to data as a factor to consider in assessing a firm's position.¹¹⁷
- 1.14.22 However, consideration should be given in each individual case as to whether data plays a significant role in entry. In particular, data acquisition may have involved significant costs for the incumbent, and the same or alternative datasets may be available to purchase for entrants.¹¹⁸ Indeed, access to data, alone, cannot be presumed to create market power or competitive advantages such as entry barriers. In general, there are three characteristics of data that require caution to be exercised in concluding that the possession of data conveys market power:
- 1.14.22.1 many types of data are readily available and replicable;
 - 1.14.22.2 multiple entities can often collect and use the same set of data without foreclosure concerns; and
 - 1.14.22.3 data can quickly become obsolete.
- 1.14.23 Because of these characteristics, it is necessary to determine whether data creates a competitive concern on a case-by-case basis rather than a blanket presumption. Whether control of a particular type of data harms competition will depend on the specific data and markets at issue in each case.
- 1.14.24 In digital markets, data is valuable when it is central to the business model of the company. Please refer to paragraphs 9.11 to 9.15 which sets out Naspers approach to data (e.g. for targeted advertising or payments).
- 1.14.25 As explained above, access to data is not typically the main constraint for technology firms. While there may be a demand for large user databases, disruption in the technology sector often comes from start-ups that grow organically. There are numerous examples of such disruption in the US, Europe, China and South Africa (e.g. TikTok, Facebook, YouTube, and so forth). These

¹¹⁷ See German Competition Act, s. 18 Market Dominance, https://www.gesetze-im-internet.de/gwb/___18.html [German version].

¹¹⁸ OECD (2020). Abuse of dominance in digital markets. p.18.

firms did not grow initially because of access to large databases, but because of product quality, i.e. well-designed and useful products. Disruption in the technology sector occurs through innovation, not through government intervention to reallocate an asset (data) that is already freely transferrable by the consumers.

- 1.14.26 Assuming that the mere possession of data is a barrier to competition could have a significant chilling effect on innovation. In this regard, there may be less incentive to make investments in technology companies that are focused on the collection and use of data due to fear that this will attract unwarranted regulation. Data is a key resource that companies will need to incorporate into business strategy and new ventures. Should it become the view that the mere possession of data is anti-competitive, promising start-ups that are data-driven might not attract investment and may be discouraged from developing their technology or business in South Africa.

Other forms of direct evidence of market power

- 1.14.27 There are various other “direct” forms of evidence of market power.
- 1.14.28 Firstly, all things being equal, since market power is related to barriers to entry, as alluded to above, the *absence of entry* may be construed as an indication of market power. It should be borne in mind, however, that in markets with network effects there is a natural tendency to concentration. Potential competitors that are equally efficient may see no reason to try to enter such a market. A lack of entry with very similar offers may therefore be unattractive, but entrants may rather make different propositions to users that pose a threat to the incumbent platform. Thus, the market power of an incumbent platform may be challenged by offers that may look different at a first glance but may provide a new home for consumers’ attention and needs.¹¹⁹
- 1.14.29 Secondly, under certain conditions, it is an indication of market power if a platform reduces the strength of (positive) network effects or reduces the quality of the service it offers to users on at least one side. In the absence of market power, a platform is more successful the stronger the network effects and the higher the quality. If higher quality and stronger positive network effects can be achieved without incurring any cost, a firm will do so. Two-sided platforms

¹¹⁹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.87

manage interaction on the platform and typically partly controls quality and cross-group and within-group external effects. A platform with market power may have the incentive to impair the user experience through the design of its platform (e.g. the algorithms that guide user behaviour). In particular, in an e-commerce context, the platform may manage seller competition on its platform.¹²⁰

- 1.14.30 To illustrate this point, consider the example of a search engine that charges competing sellers for being listed on the search engine. Such a search engine makes profits only on the seller side, as it cannot profitably charge buyers for its service. It may, therefore, have the incentive to distort search results. It is in the best interest of the search engine that sellers with a high value are ranked highly. A seller's value increases as competition with other sellers is relaxed. Therefore, the search engine may distort search results to relax competition between sellers. In particular, the search engine has an incentive to decrease the relevance of search results, and in doing so, discourage buyers from searching extensively. This degrades the quality of the platform. The platform faces a trade-off between fewer buyers using the search engine and higher profits on a per-buyer basis, which it obtains from fees charged to sellers. The distortion introduced by the platform entails fewer buyers on the platform who have to pay higher product prices than absent the distortion.¹²¹
- 1.14.31 Finally, the *misuse of personal data and privacy infringements* may also be an indication of a lack of competition. As pointed out by Furman *et al.* (2019)¹²². While this may be the case, reporting of the misuse of personal data is likely to lead to a reputation loss, and it may instead be the case that "small" platforms and other small firms are prone to this behaviour.¹²³
- 1.14.32 Therefore, Naspers postulates that there are multiple factors that need to be taken into account when assessing market power. As is generally Naspers' view, a forward-thinking and holistic approach is required when assessing market power in digital markets.

¹²⁰ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.87

¹²¹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.87-88; Belleflamme, P. and Peitz, M. (2019). *Managing Competition on a Platform*. *Journal of Economics and Management Strategy*. 28, p.5–22.

¹²² Furman, J., Coyle, D., Fletcher, A., McAuley, D. and Marsden, P. (2019). *Unlocking Digital Competition*. Report of the Digital Competition Expert Panel. March 2019.

¹²³ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.88.

2. **Scope 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, exclusivity contracting, loyalty incentives, conglomerate leveraging (including data and advertising) and predation"**

2.1 The theories of harm discussed in this section are only applicable insofar as a firm is dominant in at least one market.

Conglomerate effects (tying and bundling)

2.2 Competition authorities generally do not consider conglomeration to lead to anticompetitive concerns, and conglomerate effects are often thought to be pro-competitive. Traditional conglomerate effects are typically related to tying and bundling, which refer to the combined sale of more than one distinct product by a firm. These products are usually related in some way, for example, because they are complements (so that a fall in the price of one good increases the customer's demand for another), or because there are economies of scale in purchasing them (so that customers buy them together).¹²⁴

2.3 Potential anticompetitive theories of harm seem to emerge only in cases where there is tying and bundling. According to these theories, a firm with market power in one market may have the ability and incentive to leverage that market power to obtain market power in another adjacent market, by tying or bundling the sale of products in both markets. This may be for the purposes of, for example, deterring entry or inducing exit (i.e. foreclosure), softening competition, or relieving innovation pressure.

2.4 In terms of deterring entry or inducing exit, a firm with a dominant position in one market can use its dominant position to foreclose competition in an adjacent competitive market. The firm can do this by selling the product for which it has a dominant market position (i.e. the tying product) on the condition that consumers also purchase the product that is offered in the more competitive market (i.e. the tied product).

2.5 Where price competition is aggressive due to little product differentiation in the tied good market, bundling may soften competition by inducing an increase in the degree

¹²⁴ OFT Merger Assessment Guidelines, p.50.

of product differentiation between the bundling firm's offering and its rivals' products and thus inducing an increase in prices.

- 2.6 Tying and bundling strategies could give rise to dynamic effects, in the form of a reduction in incentives for firms to innovate and develop new or improved products. For products that form a system, a firm will have a disincentive to invest in innovation and enter a market if there is no corresponding complement system product with which to match its product. These disincentives can also have the effect of reducing threats to a firm's dominant position in the tying market.
- 2.7 For a long time, however, the view of economists associated with the Chicago School of thought¹²⁵ prevailed, according to which bundling to foreclose competition cannot be a profitable strategy. Thus, there is little incentive for a firm with a monopoly in one market to engage in tying or bundling to foreclose competition. This stems from the single monopoly profit theorem. If a firm is already earning monopoly profits in one market, it will not have an incentive to raise prices in the market for the complements to that product, since that could harm demand for the monopoly product and therefore reduce profit. Much of the economics literature on the subject of conglomerate effects has sought to identify circumstances in which this theory does not apply.
- 2.8 For products where network effects are important, tying and bundling may be used to deny rivals network effects.^{126,127} In particular, without the ability to harness network effects from users that consume a bundled product instead, competitors in the tied product market may be unable to attain a scale and provide a product of viable quality. If consumers are unlikely or unable to multi-home, foreclosure could be particularly strong. In contrast, tying and bundling can be welfare enhancing if multi-homing is allowed, even in cases where its welfare impacts are negative in the absence of multi-homing.¹²⁸ However, multi-homing on its own may not be sufficient to render foreclosure strategies based on denying network effects unprofitable.¹²⁹
- 2.9 Network effects may lead to "platform envelopment".¹³⁰ This is when a platform owner moves into a new market that has an overlap with users on its existing platform, and

¹²⁵ The economic school of thought which proposes that free markets best allocate resources in an economy and that minimal government intervention is most conducive to economic prosperity

¹²⁶ Eisenmann, T., Parker, G. & Van Alstyne, M. (2011) Platform envelopment. *Strategic Management Journal*, Vol: 32.12, p.270-1285.

¹²⁷ Kühn, K., Stillman, R. & Caffarra, C. (2005). Economic theories of bundling and their policy implications in abuse cases: an assessment in light of the Microsoft case. *European Competition Journal* Vol: 1.1, p.85-121.

¹²⁸ Choi, J.P. (2010) Tying in two-sided markets with multi-homing. *The Journal of Industrial Economics*, Vol: 58.3, p.607-626.

¹²⁹ Bourreau, M., and De Streel, A. (2019) Digital conglomerates and EU competition policy.

¹³⁰ Eismann, T., Parker, G. & van Alstyne, M (2011). Platform Envelopment. *Strategic Management Journal*. 32(1), p.1270-1285.

the underlying components of the platforms are similar enough to make entry feasible. Under the original theory of envelopment, this amounts to pure bundling since the dominant platform bundles its existing service with the new platform. In this case, Naspers does indeed own several platforms with similar underlying components, but there is no evidence that any platform has been 'enveloped', i.e. that platforms have been tied in the way that envelopment theory suggests, since it is entirely possible to use the different platforms separately, as explained at paragraph 9.6 in Part A. Moreover, the potential anticompetitive harm from envelopment is mitigated if consumers can multi-home, allowing room for rival platforms.

- 2.10 For any of these theories to be applicable and have anticompetitive effects, the firm must have market power in at least one market and engage in tying and bundling. Naspers does not engage in tying or bundling its products across its platforms and allows multi-homing, therefore excluding these harms from materialising.
- 2.11 Conglomerate effects often have a natural efficiency rationale, and these efficiencies may outweigh any potential anticompetitive effects, by lowering prices and raising quality to the benefit of consumers. These efficiencies typically involve economies of scope¹³¹ in production and distribution, savings in transaction and search costs, solving reputational problems and avoiding double marginalisation.
- 2.12 Economies of scale and scope can produce significant benefits if passed on to consumers, e.g. if the costs of producing and selling a bundle of (complementary) goods are lower than the costs of producing and selling individual components separately. Savings in marketing and distribution may also be relevant in this context.
- 2.13 Economies of scale and scope have also been highlighted as key drivers for the diversification strategies adopted by firms active in digital markets.¹³² Specifically, when a firm produces goods or services with economies of scope, it might be most cost efficient for a single-product firm to expand into a multi-product firm that relies on similar components with sunk costs. Since many of the underlying components of digital products like platforms are fairly general purpose and easy to adapt, it can be the most efficient outcome for a firm to offer platforms in many different markets. Similarly, it has been argued that data is a shareable input for product development,

¹³¹ Economies of scope exist when it is less costly to produce two or more products or services within a single firm than by separate firms.

¹³² Bourreau, M. and de Street, A. 2019. *Digital Conglomerates and EU Competition Policy*. SSRN Electronic Journal, January 2019, p.1-45.

where collecting data will allow companies to gauge which product development avenues will be most profitable to pursue.

- 2.14 For consumers, economies of scale and scope in a digital context can mean that cheaper and higher quality products are delivered, since knowledge is pooled. Economies of scale are also linked to network effects, since network effects can lead to market tipping, giving a platform maximum scale. This does not, however, protect incumbent platforms from disruptive new entrants.
- 2.15 Tying and bundling may lead to savings in transaction and search costs. For instance, consumers may desire bundling because it serves to reduce transactions costs through one-stop shopping. In this way, bundling prevents customers from searching for different suppliers to collect the different components they want.¹³³ This is an economy of scope in the purchase of goods, as opposed to the production of goods.
- 2.16 Other efficiencies can also arise, such as when goods are tied or bundled, rather than assembled from separate compatible components.¹³⁴ Such efficiencies can occur when a firm's expertise, knowledge and skills can be pooled and economies of scale can be maximised. Similarly, economies of scale, scope, production and distribution will make it efficient for a firm to sometimes bundle goods together.
- 2.17 Demand-side efficiencies may arise when the products are complements, so that lowering the price of one product increases demand for it and for other products that are used with it. It may become profit-enhancing for the firm to sell all the complements at a lower combined price than the sum the customer would have paid to assemble the same package from different suppliers. Moreover, when products are tied or bundled, the whole may be worth more than the sum of its parts, in which case the combined product offers benefits to consumers beyond the individual components added together.
- 2.18 Tying and bundling may reduce the risk of hold-up when it combines complements. For instance, separate firms might be reluctant to increase their dependence on one another through sunk cost investments to enhance complementarity.
- 2.19 Tying and bundling may improve quality assurance. Allowing consumers to assemble the individual components themselves may affect the quality of the final product, to

133 Bourreau, M., and De Streeck, A. (2019), Digital conglomerates and EU competition policy.

134 Church, J. 2008. Issues in Competition Law and Policy, p.1516.

the detriment of both producers and consumers. In this case, bundling components gives both the consumer and the producer more certainty regarding product quality.

- 2.20 Tying and bundling may avoid double marginalisation, which is known as the Cournot effect. Cournot (1838) showed that a firm monopolising the markets for two complementary products would charge lower prices than two separate monopolists, each selling a different product. This is because the integrated monopolist takes into account the positive effect on the demand of one product of a reduction in the price of the other product, and vice versa.¹³⁵
- 2.21 In assessing these conglomerate effects, competition authorities analyse the ability, incentive and effect of this strategy. This takes into account the following factors: (i) whether customers have a demand for more than one of the products, and whether the products are complements; (ii) customer preferences for variety and one-stop shopping; and (iii) the costs to rivals of providing variety and one-stop shopping at a scale to enable them to compete effectively with the merged firm.¹³⁶
- 2.22 Potential synergies within Naspers group, such as operational support and capital, are efficiencies that should be regarded as being pro-competitive rather than anti-competitive. Naspers does not leverage off multiple platforms, as is the case for large tech players that have access to multiple platforms. For instance, Google has leveraged into shopping from its search platform and Facebook leveraged from social media into classifieds. Naspers develops platforms to scale as separate independent businesses.
- 2.23 Having discussed conglomerate effects, and its potential pro-competitive and anti-competitive effects, the next section discusses conglomeration in digital markets specifically.

Digital conglomerates

- 2.24 Bourreau & De Streel (2019) argue that the rise of *digital* conglomerates may be explained by two key characteristics of the digital economy: (i) on the supply-side, the presence of important economies of scope in the development of digital products and

¹³⁵ This is similar to the well-known double marginalisation problem in the analysis of vertical integration, where a monopoly provider of two goods at different levels of supply will maximise its profits across the two goods, while separate providers will price each good at the individual profit-maximising price. The difference is that in the Cournot model of complements prices are chosen simultaneously when they are supplied separately, whereas in the case of double marginalization, the upstream firm sets its price first, providing it with a first-mover advantage.

¹³⁶ OFT Merger Assessment Guidelines, p.53.

services; and (ii) on the demand side, consumption synergies derived by consumers when adopting product ecosystems.¹³⁷

- 2.25 Digital firms may benefit from strong economies of scope in product development. Digital products are typically designed through combinations of hardware and software, which have a modular design in that they consist of independent components (e.g. chips and algorithms), whose interactions are ruled by standardised interfaces. Since production involves large fixed costs, there are economies of scope in product development for digital products. For example, Apple has developed an in-house range of processors, which is used and re-used across its product line for iPhones and iPads. Thus, it represents a sharable input in product development, which reduces the development cost of each new device.
- 2.26 Data may also be a type of sharable input for product development. Firstly, data can be used as an input that allows firms to develop new products and services, also leading to economies of scope in product development. For example, Google collects large amounts of data about what consumers are looking for through its existing services (e.g. search) and could therefore potentially develop new services where it observes high demand and low supply. Secondly, platforms may wish to expand into new markets to acquire new data on unattached consumers or complementary data on attached consumers. They may try to follow consumers across multiple devices (e.g. from laptop to phone to tablet) or across multiple applications (e.g. Facebook login), to better monetise their attention to online advertisers. Yet it is not the case that data alone can constitute a sustainable competitive advantage for firms, and this should be assessed on a case-by-case basis. It may well be that the data is neither inimitable nor rare, and that there are alternative sources of data available for competitors (i.e. substitute data exists). Hence, data is not valuable by itself.¹³⁸
- 2.27 Consumption synergies for consumers may derive from bundling (e.g. consumers value purchasing different products or services from the same seller) and lower transaction costs (e.g. lower search costs). Additionally, it may be derived from a firm's investment to create linkages between their (sometimes unrelated) products, even though it is not being sold as a bundle, in order to increase the complementarity between the products. Consumption synergies from ecosystem linkages are due to shared functionalities between products in the ecosystem.¹³⁹ Bourreau & De Streeel

¹³⁷ Bourreau, M., and De Streeel, A. (2019), Digital conglomerates and EU competition policy.

¹³⁸ Lambrecht and Tucker (2015).

¹³⁹ An example of this is the Apple Watch that can only be used together with an Apple iPhone – the consumer derives consumption synergies by buying both products together, even though these two products are not sold as a bundle by Apple.

(2019) refer to such a set of products, that generates consumption synergies when bought together, as a *product ecosystem*.¹⁴⁰

Digital ecosystems

- 2.28 “Digital ecosystems” are yet to be conclusively defined, with definitions often depending on the perspective (e.g. ecology, economics, or technology).¹⁴¹ Li et al. (2012)¹⁴² propose the following multi-discipline definition: “A *Digital Ecosystem is a self-organizing, scalable and sustainable system composed of heterogeneous digital entities and their interrelations focusing on interactions among entities to increase system utility, gain benefits, and promote information sharing, inner and inter cooperation and system innovation.*”
- 2.29 Subramaniam (2020)¹⁴³ characterises digital ecosystems as follows: “*Digital ecosystems are ecosystems shaped by interdependencies initiated through data connectivity, galvanized by technologies such as sensors and the Internet of Things.*” The author expands this to say that: “*Digital ecosystems are ecosystems where interdependencies are driven by digital connectivity. They are an outcome of various technological forces that create a network of data recipients—with whom firms can share data and co-create value. To benefit from digital ecosystems, a firm needs products [and services] that generate and share data within this network of data recipients. In doing so, they can compete not just with products but with the data their products generate.*”¹⁴⁴
- 2.30 Subramaniam (2020) further indicates ecosystems are associated with digital platforms like Uber, Alibaba or Amazon, and the app economies built by Apple, Microsoft or Google, due to the digital interlinkages they generate and leverage.
- 2.31 Take Amazon as an example of a digital ecosystem. In order to serve customers of its e-commerce business around the world, it had to build a large server infrastructure around the globe. Amazon then started to rent out server capacity to other firms, creating what is now Amazon Web Services.¹⁴⁵ This, in turn, was used by Amazon to launch other web-based services like its video content provider, Amazon Prime. As

¹⁴⁰ Bourreau, M., and De Streeck, A. (2019), Digital conglomerates and EU competition policy.

¹⁴¹ Li, W., Badr, Y., & Biennier, F. (2012, October). Digital ecosystems: challenges and prospects. In proceedings of the international conference on management of Emergent Digital EcoSystems, p.117-122.

¹⁴² Li, W., Badr, Y., & Biennier, F. (2012, October). Digital ecosystems: challenges and prospects. In proceedings of the international conference on management of Emergent Digital EcoSystems (p. 117-122).

¹⁴³ Subramaniam, M. (2020). Digital ecosystems and their implications for competitive strategy. *Journal of Organization Design*, p.9, p.1-10.

¹⁴⁴ Subramaniam, M. (2020). Digital ecosystems and their implications for competitive strategy. *Journal of Organization Design*, p.9, p.1-10.

¹⁴⁵ <https://morethandigital.info/en/what-is-a-digital-ecosystem-understanding-the-most-profitable-business-model/>.

part of an Amazon Prime subscription, viewers in specific areas get free shipping for certain online purchases from Amazon, as well as many other benefits. For eligible consumers with a Prime subscription, buying from Amazon is likely to be cheaper than buying from another e-commerce site where they would have to pay the price of the product and shipping.¹⁴⁶

- 2.32 Google is another example of an ecosystem. It controls the primary platform to a particular digital product (i.e. general search results) and can protect its dominant position by creating an ecosystem comprising multiple platforms among which users can easily switch. Through its links to services such as news, email, and YouTube, Google provides a gateway to the internet that minimises search time and thereby the cognitive and time costs of using the internet. Google's acquisition of Android was a pivotal step toward building out Google's proprietary ecosystem, as it was able to use its control over this mobile operating system to make its own search service the default on the vast majority of the world's smartphones.¹⁴⁷
- 2.33 According to Jacobides et al. (2020), the concept of 'ecosystem' tends to be used in two distinct ways in the digital space:¹⁴⁸
- 2.33.1 Multi-actor ecosystems: Formally, and drawing on the term's ecological foundations, an ecosystem is a community of independent parties. In economic terms, this could apply to any situation where there is 'joint value creation', such that firms effectively work together to create value that no single firm could have created independently.
- 2.33.2 Multi-product ecosystems: However, in the digital space, the term ecosystem is often used to relate to a collection of products and services offered by a single corporate entity, often through a variety of divisions or businesses. There are typically economic links between the products and services in question. On the demand side, they can be substitutes (such as Facebook Messenger and WhatsApp), complements (such as Apple devices and the iCloud) or even effectively inseparable (such as Android and Google Play). There can also be important supply side synergies to this form of ecosystem.
- 2.34 Subramaniam (2020) focuses on the interdependency of firms within an ecosystem. In the case of Naspers, the business units are not interdependent. Where they do

¹⁴⁶ <https://www.amazon.com/primeinsider/about>

¹⁴⁷ Newman, J.M. (2019). Antitrust in Digital Markets. *Vanderbilt Law Review*, Vol: 72:5, p.1497-1561.

¹⁴⁸ Jacobides, M. G., Cennamo, C. & Gawer, A. (2020). Distinguishing between Platforms and Ecosystems: Complementarities, Value Creation, and Coordination Mechanisms (Working paper).

make use of services provided by another business unit (e.g. the logistic services of Media24) it is done under contract and at arm's length. The author further states that benefits can only be derived if the products firstly generate data, and secondly share the data with the other parts of the ecosystem. While the different business units under Naspers do generate data, the data is not shared among the business units, nor with Naspers. Further, it should be noted that the mere sharing of data is not a concern for competition law. The purpose of sharing the data is to use the data to grow or entrench a position in a different market is the concern. Data with Naspers is not consolidated in a centralised manner.

- 2.35 Digital ecosystems typically use user authentication (i.e. a single or unique log-in) as a mechanism to aggregate across segments, whereby users authenticate with a centralised ID that can be recognised as a unique identifier and used to aggregate user data. The firms that have such ecosystems (e.g. Facebook) have one authentication system and built this integrated structure from the ground up (they were start-ups until relatively recently). Naspers does not have a single or unique user ID across its platforms and cannot aggregate data in this way. It is not feasible for Naspers to implement such a system, due to commercial and structural barriers. Thus, from a consumer's perspective (i.e. the demand side), Naspers does not operate a digital ecosystem in South Africa.
- 2.36 From the business units' perspective (i.e. the supply side), Naspers operates like an investment holding company, which facilitates certain efficiencies for its units (e.g. funding and knowledge transfer), as discussed above. While it holds a portfolio of assets, these are not linked to one another through a common platform ecosystem. This means that Naspers does not function as a multi-actor or multi-product ecosystem in the way the terms have been applied to the large international technology companies, such as Facebook, Google and Amazon.
- 2.37 While there might be a hypothetical business case (e.g. for the OLX group) to form an ecosystem, this would come with large costs and internal disruption. This is because there are many structural and technical barriers to aggregation into an ecosystem. Naspers would require significant additional investment to integrate data, which is not feasible. It is also difficult to do cross-brand centralisation and firms that are seen as third parties to one another have struggled with this in the past (e.g. Facebook and WhatsApp).
- 2.38 Finally, there are data privacy regulations in place that reinforce these issues. Naspers has global principles in place (e.g. Protection of Personal Information Act

("POPIA") and General Data Protection Regulation ("GDPR"). Naspers has standardised privacy policy across the group, which all its companies must adhere to but each business segment must implement their own data governance principles and policies (i.e. it is fully decentralised). Naspers has an internal audit team that monitors compliance. It also has very clear and well-defined rules for vendor management and sharing data with third parties. Indeed, all companies face legal constraints on data governance and data sharing.

- 2.39 As explained above, Naspers operates a decentralised (or federalised) system across its business units. There are certain advantages to this disaggregated structure, as discussed above. For example, it gives Naspers the ability to isolate risks and improve security (e.g. from cyberattacks) and can make it easier to invest or divest in businesses, because there is less co-dependency between the business units.

General comments on business users using platforms

- 2.40 As a general point, Naspers sees no benefit in platforms restricting access to business users who comply with all applicable regulations and who wish to use a platform in good faith.
- 2.41 Naspers is of the view that these platforms should be as open as possible as this allows for greater offerings to consumers. There is no benefit to locking business users in or imposing unfair terms.

General comments on barriers to entry

- 2.42 Naspers views technology as an enabler. In many instances, it has levelled the playing field and removed traditional barriers to entry.
- 2.43 For instance, before the launch of Property24, real estate agents had hold on real estate print media advertisements. Property24 has removed this barrier to entry in the real estate market by offering sellers of property access to a wide base of potential buyers with a tier system of payment options that accommodates sellers of all sizes. Property24 has also reduced significantly the advertising costs for estate agents. Takealot has opened the traditional retail market by allowing third party sellers to use its platform and have access to a large base of buyers. and make use of Takealot's extensive logistics network to fulfil delivery and other associated services.
- 2.44 Insofar as predation is concerned, Naspers does not dictate pricing to its business segments. Profitability is however an objective of the Naspers business segments.

Increased profitability margins continue to form part of the objectives, and performance assessment, of the business segments.

3. Scope 3 - "Evaluate other barriers to entry and expansion by rival platforms, including but not limited to network effects, capital costs and consumer marketing"

Barriers to entry and network effects in platform markets

3.1 Network effects can mean that the "coordinated" decisions of the economic agents have the consequence that it is not the platform with the highest quality offer that dominates the market, but a different platform. If the latter is the incumbent platform and a higher-quality platform enters the market, the former may still prevail. The entrant platform must overcome the problem that users have no incentive to switch if they expect most of the remaining users to remain on the established platform. If all users remain in the *status quo* (unless unilateral switching to the new platform is more attractive), barriers to entry will arise owing to user discoordination.¹⁴⁹

3.2 On the other hand, if a new platform influences the expectations of users in such a way that all potential users assume that the status quo will be replaced (e.g. based on its reputation acquired in other markets), there are no barriers to entry. The challenge is therefore to identify the cases where network effects work in favour of the incumbent (and hence constitute an entry barrier) and those cases where they work in favour of entrants.¹⁵⁰

User expectations, multiple markets, and barriers to entry

3.3 How users form expectations may depend on the type of platform entering the market. In particular, if a platform has been successful in other regions or countries, it may in some cases face no (or low) barriers to entry. For example, a platform that is popular in the United States and subsequently enters other (small) countries may be able to easily "persuade" users to stop visiting the local incumbent platforms and, thus, quickly displace these incumbent platforms. This is likely if economies of scale and scope can be exploited in markets delineated by region or product category (e.g. in the form of more advanced algorithms or a particularly user-friendly interface), or if network effects exist across these different markets, and in particular, if some users

¹⁴⁹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.75-76.

¹⁵⁰ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.76.

on one side are active in several markets (e.g. travellers using Uber in different cities).¹⁵¹

- 3.4 This also applies if switching costs do not apply to a specific product but to a specific platform. For example, a user who registered on Amazon in the early days to buy books may use her profile to buy products in other product categories (and may have provided information that allows Amazon to make useful recommendations). Thus, users who in the past have chosen other vendors when purchasing clothing, for example, do not incur switching costs when they purchase this from Amazon (when Amazon enters this other product category).¹⁵²
- 3.5 Similarly, as discussed above, Facebook Marketplace, which leverages from the already significant population penetration of the Facebook social media platform, has enjoyed substantial success and growth in the past five years with apparently little effort and investment, while OLX (with which there is undeniably close competitive interaction) has not prospered in South Africa in that same period. Based on experience in other jurisdictions, the exponential and fast paced growth of Facebook Marketplace, combined with the wealth of data it employs across its business, places it in a position of actually tipping the market (despite other players previously having a foothold in the market).
- 3.6 Uber, for instance, has also benefited from its established ride-hailing app presence, providing users a seamless experience between their existing Uber account and their UberEats account.

The role of single-homing vs multi-homing

- 3.7 Entry barriers also depend on how easy it is for users to simultaneously select from offers on multiple platforms. If multi-homing is possible and not associated with higher costs for the users, a user can select the better offer and thereby engage with a new platform whenever preferred and use the established platform only for the remaining interactions. In such a case, market entry tends to be easier than when users have to choose either the new or existing platform – i.e. single-homing. The existence of

¹⁵¹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.75.

¹⁵² Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.75.

significant multi-homing may enhance contestability and reduce barriers to expansion and entry.¹⁵³

- 3.8 The platform's price structure will have an impact on the decision to multi-home. For example, if a registration or participation fee is collected from a platform such as, for instance, an online newspaper, this tends to make multi-homing less attractive. In contrast, if only successful transactions are priced, for instance if a reader of an online newspaper may pay per article, then multi-homing does not require additional fixed payments and, thus, is more attractive for users.¹⁵⁴

Barriers to entry and market dynamics

- 3.9 Whether barriers to entry are high in markets with dominant platforms must be examined on a case-by-case basis. While network effects typically lead to high market shares for one or a small number of players, the contestability of a market is not necessarily compromised. Some of today's largest platforms have entered the market when there were already other platforms with a large number of users active.¹⁵⁵ Again, as discussed above, a good example of this is Facebook Marketplace entering and rapidly growing in the market in which OLX and Gumtree operate.
- 3.10 Barriers to entry are typically lower in rapidly growing markets (in which many unattached users enter) and in markets in which new generations of products have to become available at given dates. It also matters whether the platform's quality improvement concerns the matching function, or the stand-alone value of the platform provided to at least one side of the platform. In the former case, user coordination is still needed to make full use of this improvement. In the latter, users benefit regardless of the decisions of others. Thus, if improvements are of the latter kind, barriers to entry are less of an issue.¹⁵⁶
- 3.11 As markets mature and platforms make only incremental updates of their offerings, barriers to entry become an increasing concern. However, even in mature markets, specialised entrants may be able to make major improvements on the incumbent's offer and, thus, overcome the lack of an installed user base. Furthermore, to the extent that large venture capital funds are willing to fund innovative ideas even in markets

¹⁵³ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.75 – 76.

¹⁵⁴ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.76.

¹⁵⁵ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.76.

¹⁵⁶ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.76.

that are already dominated by a platform, entry barriers are not prohibitively high, as new platforms may enter with tailor-made offerings for niche audiences.¹⁵⁷

Consumer switching costs and network effects

- 3.12 Consumer switching costs can also be important to assess barriers to entry. Although some users on some platforms experience network effects and switching costs, the one does not imply the other. In the case of network effects, a user's own benefit (and, thus, a user's decision) depends on the decisions of other users. In the case of switching costs, however, the decision depends on a user's own past decisions and not on those of other users. For example, in an e-commerce setting, consumer switching costs occur if an e-commerce site can use past customer information to provide a more pleasant shopping experience.¹⁵⁸ For example, a platform, such as Takealot, may hold consumers' credit card information such that this does not have to be re-entered every time a purchase is made. An instance of consumer switching costs in the context of digital two-sided platforms is a seller's "investment" in his reputation. For example, it may be impossible for a reputed seller on Amazon to use his rating and the consumer feedback he received on another platform.¹⁵⁹
- 3.13 On two-sided platforms, switching cost may depend on the number of users on the other side of the market. An example is sellers on e-commerce platforms that would like to migrate from an incumbent to an entrant platform but cannot carry the reviews posted by customers from the past. The more useful reviews there are for the particular seller on the incumbent platform the higher the opportunity cost of migrating from one platform to another, as a good track record affords a premium. Thus, sellers' switching costs may be higher the larger the number of past users on the other side.¹⁶⁰
4. ***Scope 5 - "Evaluate whether the ranking algorithms used by platforms, including any pay for position or promotional opportunities, negatively impact competition on the merits, consumer choice and / or the participation of SMEs and HDP owned business users"***
- 4.1 In order to operate, platforms will set a number of "rules", including the design of the matching and ranking algorithm. For buyers, an algorithm that better matches their

¹⁵⁷ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.76.

¹⁵⁸ See for example Collyer, K., Mullan, H. and Timan, N. (2018). *Measuring market power in multi-sided markets*. in OECD, *Rethinking Antitrust Tools for Multi-Sided Platforms*, p.78.

¹⁵⁹ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.78.

¹⁶⁰ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.79.

query with available offerings increases the benefit of using the platform, reducing their search costs (in terms of both time and money) and may offer them a product that better suits their needs. For the platform, the ranking of results is a potential opportunity to generate income, by selling a more prominent (e.g. featured) ranking or visually more prominent listing (e.g. larger photos). Additionally, by providing a better listing to buyers, it can potentially increase sales. The algorithms used by the Naspers platforms try to match consumers with the best sellers. For example, Takealot's search system uses data driven algorithms to serve advertisements and product listings. It determines the consumer's intent to render results that are relevant to that consumer, with the primary aim of enhancing the consumer's experience. The algorithm is also designed to maximise search conversions and will naturally render listings with the most historic conversions. Sellers and suppliers can promote and boost their own products and listings within Takealot's search systems by purchasing advertising products, which may be an additional expense they need to budget for.

- 4.2 As an example of the importance of listing to sellers, in the recent complaint against Amazon (2021)¹⁶¹ stated that 82% of third-party sellers' sales on Amazon's platform occurred through Amazon's "Buy Box". When Amazon and multiple third party sellers offer the same or similar products, Amazon combines all of the offers onto one product page and one of the products is awarded the "Buy Box" or "Featured Offer", making it the most visible to buyers. In the case of Amazon, the selection of the product in the Buy Box occurs through a complex algorithm that takes several factors into consideration, for example giving preference to the product of those sellers who pay Amazon to fulfil the order, even if theirs is not the best-priced product.
- 4.3 Crémer et al. (2019)¹⁶² point out that platforms implementing rules are not a problem per se, and in fact *"we should welcome competition between different business models and different platform architectures and encourage innovation in that space — indeed, these types of innovation have allowed platforms to generate large efficiencies by enabling transactions that were not possible. We would expect that, in many cases, profit maximising platforms have incentives to write good rules to make the platform more valuable to their users. In the case of two-sided platforms, we would expect these rules to serve both sides in order to benefit from network externalities."*

¹⁶¹ District of Columbia v. Amazon.com, Inc. Complaint. (May 25, 2021). Available: <https://oag.dc.gov/sites/default/files/2021-05/Amazon-Complaint-.pdf>

¹⁶² Crémer, J., De Montjoye, Y. & Schweitzer, H. (2019). Competition policy for the digital era. European Commission. pp.60-62

- 4.4 The authors caution against platforms leveraging their market power by giving preferential treatment to their own products or services, or to products or services from their own ecosystem, when competing with products and services provided by other providers. They conclude that *“self-preferencing is not abusive per se, but should be subject to an effects test”*.¹⁶³
- 4.5 Further, they point to the possibility of a dominant platform selling “monopoly positions” to sellers by showing the buyers only one acceptable choice along with alternatives that do not meet their needs. The authors use the example of hotel booking sites that give preferred placement to hotels that pay the sites higher commission, especially since would-be buyers rarely scan down the results page and are even less likely to click to the second page of results.¹⁶⁴
- 4.6 Belleflamme & Peitz (2019)¹⁶⁵ add that for a platform charging only sellers, the distortion *“degrades the quality of the platform. The platform faces a trade-off between fewer buyers using the search engine and higher profits on a per-buyer base, which is obtained from fees charged to sellers. The monopoly distortion introduced by the platform consists in fewer buyers on the platform who have to pay a higher product prices than absent the distortion of the search results.”*
- 4.7 Related to this is the case of ad-financed matching platforms. Franck & Peitz (2019)¹⁶⁶ explain that here a monopoly matching platform has an incentive to keep buyers on the platform for as long as possible. A very efficient matching process may reduce buyers’ time spent on the platform and thereby decrease advertising revenue. However, the platform needs to be aware that buyers may stop using the platform if their expected benefit from using it is too low.
- 4.8 Overall, whether by self-preferencing or reducing the quality of matches as a means to increase ad revenue, platforms need to consider the trade-off with a potentially lower consumer experience and its effect on buyers returning to the platform in the future. As explained in the Takealot submission, Takealot does not have an incentive to self-prefer or to prefer any specific manufacturers or brands, as this will decrease the consumer experience and affect traffic to its platforms. Superbalist’s listings

¹⁶³ Crémer, J., De Montjoye, Y. & Schweitzer, H. (2019). Competition policy for the digital era. European Commission. p.66

¹⁶⁴ Crémer, J., De Montjoye, Y. & Schweitzer, H. (2019). Competition policy for the digital era. European Commission. p.62

¹⁶⁵ Belleflamme, P., & Peitz, M. (2019). Managing competition on a two-sided platform. *Journal of Economics & Management Strategy*, 28(1), p.5-22.

¹⁶⁶ Franck, J., and M. Peitz. (2019). *Market Definition and Market Power in the Platform Economy*. Brussels: Centre on Regulation in Europe (CERRE), p.88.

algorithm is focused on listing the most relevant products (according to the most recent addition) with the primary aim of enhancing the consumer's experience, increasing demand, sales and conversions.

- 4.9 Importantly, Crémer et al. (2019) also state *that “no competition policy concerns arise where the payment of commissions and its influence on the ranking is made explicit in a way that enables consumers to explicitly choose with a clear understanding of the trade-offs they are facing”*.¹⁶⁷ While there may be practical limitations as to implementing such transparency, Takealot for example, does this by including the word “Sponsored” in the text description of any results it displays that have been paid for. On some Naspers platforms (e.g. AutoTrader and Property24), sellers may purchase premium products or value-added services (e.g. premium or featured listings) to increase their rankings (e.g. to list at the top of the results page). These products are available to all sellers on a non-discriminatory basis.
- 4.10 Some platforms use a “quality score” to determine the order of results. How this quality score is calculated is determined by each platform individually. For example, in the Google Search (Shopping) case¹⁶⁸ a 2011 blogpost by Google was cited. The blogpost explained that its newly updated ranking algorithm for English-language sites *“...was designed to reduce rankings for low-quality sites—sites which are low-value add for users, copy content from other websites or sites that are just not very useful. At the same time, it will provide better rankings for high-quality sites—sites with original content and information such as research, in-depth reports, thoughtful analysis and so on”*.¹⁶⁹ Property24 has indicated that it also considers the quality of the listing when deciding its rank. In this case, factors such as more photos of the property and more information (e.g. floor size) provided by the seller give the listing a higher quality score. A seller can, in this case, boost its listing’s ranking without any monetary cost. Property24 does not sell property and, accordingly, does not preference its own listings.
- 4.11 **Scope 6 – “Evaluate any other barriers to entry into online commerce for SMEs and HDP owned firms, including but not limited to marketing costs, technological and product challenges”**
- 4.12 Greater uptake of online platforms is important for SMEs and firms owned by historically disadvantaged persons (“HDPs”) as, unlike larger firms, the ability of these

¹⁶⁷ Crémer, J., De Montjoye, Y. & Schweitzer, H. (2019). Competition policy for the digital era. European Commission.

¹⁶⁸ Case AT.39740 Google Search (Shopping) of the European Commission (2017).

¹⁶⁹ Case AT.39740 Google Search (Shopping) of the European Commission (2017), para 358 (c).

firms to develop internal digital infrastructures that can capitalise on the benefits of digitalisation, is limited by a lack of financial resources and/or skills.¹⁷⁰

- 4.13 There are a variety of key business functions that can be carried out by SMEs and HDP-owned firms using online platforms. Examples include marketing, advertising, branding, customer services and external communication; e-commerce (i.e. online marketplaces); service delivery; financing; payment; communication, remote working, and teleconferencing; and research and development, design and exploration. The benefits that accrue from these various functions are widespread and are set out in the table below.

SME Business Function	Example of Benefits
Marketing, advertising, branding, customer services and external communication	Positive indirect network effects, access to markets (incl. global markets), advanced analytics/AI (e.g. targeting/ market segmentation, impact analysis).
E-commerce	Positive indirect network effects, access to markets (incl. global markets), advanced analytics/AI (e.g. targeting/ market segmentation, impact analysis), lower transaction costs (e.g. payment, shipping, logistic), enhanced client trust (i.e. review system, platform insurance).
Service Delivery	Positive direct and indirect network effects, access to global markets, lower transaction costs (e.g. payment, shipping, logistic, customer care), enhanced client trust (i.e. reviews system, platform insurance), standardisation of offer, standardisation of contracts, reduced asymmetry of information.
Financing	Positive direct network effects, access to global markets, reduced financing costs, reduced asymmetry of information (e.g. collaterals).

¹⁷⁰ OECD. (2021). *The Digital Transformation of SMEs*. OECD Studies on SMEs and Entrepreneurship. OECD Publishing, Paris. <https://doi.org/10.1787/bdb9256a-en>; OECD. (2019). *OECD SME and Entrepreneurship Outlook 2019*. OECD Publishing, Paris. <https://dx.doi.org/10.1787/34907e9c-en>

SME Business Function	Example of Benefits
Payment	Positive direct and indirect network effects, lower cashing delays, reduced asymmetry of information.
Communication, remote working, and teleconferencing	Positive direct and indirect network effects, lower to zero costs for implementation.
Research and development, design, and exploration	Positive direct network effects, lower production, and diffusion costs (e.g. common standards, open source code).

Source: OECD (2021)¹⁷¹

4.14 Broadly, there are a variety of benefits of platforms for SMEs and HDP owned firms. The existence of network effects allows online platforms to unlock access to digital services at a low cost for SMEs and HDP owned firms. It also allows SMEs to interact with other end-users across regional and national borders, and trade at a global level. Platform services are also typically tailored to them and relatively easy to use, such that the skills gap is less of a barrier. Online platforms, with their easy access to large networks and effective matchmaking systems, also create important opportunities for SMEs willing to innovate and adapt their products and business models. This happens both in sectors where technological innovation is core and in those where it is not. Direct network effects are a key factor in this environment focusing on software development. Furthermore, empirical research suggests that online platforms increase productivity in hotels, restaurants, taxis, and retail trade; sectors in which there is a large presence of SMEs. In particular, the impact on firms' productivity from the use of online platforms appears to be more important the smaller the size of the firm.¹⁷²

4.15 SMEs and HDP firms may also face specific entry barriers. For instance, an internal skills gap may exist, which prevents managers and workers from identifying the digital solutions they need and adapting business models and processes. A financing gap may also exist, as SMEs face difficulties in accessing finance for intangible digital investments that cannot easily be used as collateral to secure a loan. Furthermore,

¹⁷¹ OECD. (2021). *The Digital Transformation of SMEs*. OECD Studies on SMEs and Entrepreneurship. OECD Publishing, Paris. <https://doi.org/10.1787/bdb9256a-en>.

¹⁷² OECD. (2021). *The Digital Transformation of SMEs*. OECD Studies on SMEs and Entrepreneurship. OECD Publishing, Paris. <https://doi.org/10.1787/bdb9256a-en>.

an infrastructure gap may exist, as access to high-speed broadband is a prerequisite for the digital transformation of SMEs.¹⁷³

- 4.16 In many cases, Naspers' businesses enable smaller firms to participate in the market. For instance, Takealot's national distribution platform allows local suppliers to leverage off this platform to sell their products to customers located anywhere in the country, without any of the upfront investments that these suppliers would otherwise have to make, including marketing, logistics, payment systems, and website creation, maintenance and administration.
- 4.16.1 In addition, Naspers, as discussed in Part A of the submission, has established Foundry. Foundry is focused on investing in a range of diverse South African technology entrepreneurs. This SME focus is an important factor in relation to developing South Africa's tech industry. Please refer to paragraph 9 above for further information on Foundry's investments.
- 4.16.2 Further, Naspers Labs is focused on micro-entrepreneurship and aims to create jobs for thousands of youths over the years.
- 4.17 Naspers is able to take a long-term view in respect of these firms, as it is a balance sheet investment, rather than a fund. Naspers takes minority stakes in the firms and does not control them. The investment provided by Naspers is also not once-off. Rather, the focus is on working positively with the businesses. It can also deploy group resources, such as governance, financial reporting, access to markets, more robust technology, and fund raising.

¹⁷³ OECD. (2021). *The Digital Transformation of SMEs*. OECD Studies on SMEs and Entrepreneurship. OECD Publishing, Paris. <https://doi.org/10.1787/bdb9256a-en>

5. **Scope 7 and 8**

Scope 7 – "Evaluate the extent to which the findings and any identified remedies in respect of core platforms and generalisable across online intermediation platforms"

Scope 8 – "Determine appropriate remedies where an adverse effect on competition or the purpose of the Act are found as set out in Section 43C(3) of the Act"

- 5.1 The extent to which the findings and any identifiable remedies in respect of core platforms are generalisable across online intermediation platforms.
- 5.2 Given the growing importance of digital platforms to economic activity, there have been several cases and a growing academic literature on the topic of remedies that can be applied in cases where digital platforms have violated competition law principles.
- 5.3 Although digital platforms in competition regulation are still a relatively new concern, there have been some key cases relating to platforms in China, the US and the EU, which give some indication of remedies that may be applied when contravention does occur. Some key cases are briefly discussed below but should not be taken to be an exhaustive list.
- 5.4 Facebook, although it has only recently become more of an intermediary platform between businesses and consumers, has seen significant scrutiny of its privacy practices by competition authorities. One of the key findings in the Facebook case was that online platforms do not generally provide users with the kinds of privacy they actually demand. Many platforms are set up in a "take-it-or-leave-it" fashion, such that consumers must give up their privacy demands to enter the platform. Often, it is also difficult for consumers to understand what exactly they are consenting to when accepting privacy terms. This can potentially be mitigated by behavioural remedies.¹⁷⁴ As Facebook has demonstrated, for example in hearings before the United States Senate, platforms are often open to engaging with competition agencies to commit to new privacy regimes.
- 5.5 Naspers has global data privacy principles in place (which reflect e.g. POPIA and GDPR), but the implementation is fully decentralised (i.e. each business segment must implement its own policy, which is standardised by Naspers. Naspers has an internal audit team that monitors compliance. Naspers business units also have very

¹⁷⁴ Botta, M. & Wiedemann, K. (2019). Exploitative Conducts in Digital Markets: Time for a Discussion after the Facebook Decision. *Journal of European Competition Law & Practice* Vol 10(8).

clear and well-defined rules for vendor management and sharing data with third parties. Since “purely” intermediation platforms like Takealot do not collect the same level of detailed data that a social media platform such as Facebook can collect, the risks of the same degree of privacy violations are low.

- 5.6 Google has both its search engine component, and a platform for businesses known as Google Shopping in addition to multiple other businesses. In 2017, the shopping arm of Google faced a case brought by the EC, in which it was accused of favouring itself in ranking algorithms. In this case, the EC implemented a remedy whereby Google and Alphabet had to effectively end and refrain from prioritising itself (i.e. Google Shopping) in ranked searches on the search engine. Although the exact mechanics of how this was to be implemented was left up to Google, the court noted that, “[a]ny measure chosen by Google and Alphabet should, however, ensure that Google treats competing comparison shopping services no less favourably than its own comparison shopping service within its general search results pages”.¹⁷⁵ As explained above, Naspers business units do not self-preference in this way.
- 5.7 As precedent and the understanding of how digital markets operate evolves, novel ex-post remedies will undoubtedly be applied.
- 5.8 Parker et al. (2020) argued that the most effective remedy for preventing anticompetitive behaviour is to ensure there is a strong ex-ante regulatory system in place. In 2020, the EU Parliament released a briefing document on its intention to regulate online platforms with strong market power in particular markets. In this document, it outlines the rationale for regulation, noting that the impact on competition can be particularly harmful, and that once markets have tipped, *ex-post* regulation can be ineffective and have unintended consequences.
- 5.9 The Digital Markets Act, published in December 2020, introduces rules for platforms that act as “gatekeepers” in the digital sector. It aims at preventing gatekeepers from imposing unfair conditions on businesses and consumers and at ensuring the openness of important digital services. The Digital Markets Act identifies three main cumulative criteria that bring a company under the scope of the Digital Markets Act:¹⁷⁶
- 5.9.1 A size that impacts the internal market: this is presumed to be the case if the company achieves an annual turnover in the European Economic Area (EEA)

¹⁷⁵ AT.39740 - Google Search (Shopping) – C(2017) 4444 final, on 27.6.2017, para 699.

¹⁷⁶ https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_234

equal to or above € 6.5 billion in the last three financial years, or where its average market capitalisation or equivalent fair market value amounted to at least €65 billion in the last financial year, and it provides a core platform service in at least three Member States;

5.9.2 The control of an important gateway for business users towards final consumers: this is presumed to be the case if the company operates a core platform service with more than 45 million monthly active end users established or located in the EU and more than 10 000 yearly active business users established in the EU in the last financial year; and

5.9.3 An (expected) entrenched and durable position: this is presumed to be the case if the company met the other two criteria in each of the last three financial years.

5.10 The Digital Markets Act states that if all of these quantitative thresholds are met, the specific company is presumed to be a gatekeeper, unless it submits substantiated arguments to demonstrate the contrary. If not all these thresholds are met, the European Commission may evaluate, in the context of a market investigation for designating gatekeepers, the specific situation of a given company and decide to identify it as a gatekeeper on the basis of a qualitative assessment.

5.11 Because Naspers does not operate in the same way as the large multinational technology companies implicated in the cases above, it would not be appropriate to implement those remedies in the South African context. Thus, any potential remedy would have to be tailor-made for local market circumstances.