



competitioncommission
south africa

ONLINE INTERMEDIATION PLATFORMS MARKET INQUIRY CALL FOR PARTICIPATION IN PUBLIC HEARINGS TO BE HELD ON 2 to 19 NOVEMBER 2021

BACKGROUND

The Competition Commission formally initiated the Online Intermediation Platforms Market Inquiry (the “Online Platforms Market Inquiry”, “Inquiry” or OIPMI) on 19 May 2021 in terms of section 43B(1)(a) of the Competition Act 89 of 1998 (as amended) (“the Act”). Online intermediation platforms facilitate transactions between business users and consumers (or so-called “B2C” platforms) for the sale of goods, services and software, and include eCommerce marketplaces, online classified marketplaces, software application stores and intermediated services such as accommodation, travel, transport and food delivery.

An Inquiry was initiated because the Commission has reason to believe that there are market features of online intermediation platforms that may impede, distort or restrict competition; and in order to achieve the purposes of the Act including the participation of SMEs and historically disadvantaged persons in these markets. The Scope of the Inquiry is set out in the Terms of Reference which was published on 9 April 2021.

The initiation was followed by the release of the Statement of Issues (SOI) along with Requests for Information (RFIs) to various online platforms and an online business user survey. The first SOI and set of RFIs were primarily targeted at getting an initial understanding of some of the market dynamics and the sort of business practices occurring across different online intermediation platform types operating in South Africa.

After reviewing the initial submissions, the Inquiry released a Further Statement of Issues (FSOI) on 17 August 2021, along with further requests for information from market participants. The Inquiry has also updated its business user survey and contracted a survey company to solicit responses from businesses that list on these platforms.

All the Inquiry documents as well as public versions of stakeholder submissions are available on the Inquiry's website (<https://www.compcom.co.za/online-intermediation-platforms-market-inquiry/>) along with the Administrative Timetable and the Guidelines for Participation in the Inquiry.

PUBLIC HEARINGS

The Inquiry will be holding virtual public hearings from 2-19 November 2021 as set out in the administrative timetable for the Inquiry. The Inquiry may extend the period for public hearings if required to hear from more stakeholders. The public hearings will be virtual in order to ensure a safe environment for stakeholders wishing to participate and to facilitate participation from stakeholders based throughout South Africa and abroad.

Public hearings are an important part of a fair and transparent process which the Inquiry is committed to. This will foster accountability and legitimacy in the Inquiry process and enhance market participants' and the public confidence in the Inquiry process.

The purpose of the public hearings in November is to enable the Inquiry Panel and Technical Team to engage directly with stakeholders in respect of their submissions around how these platform markets operate, the issues identified by the Inquiry to date and any remedial actions stakeholders consider are necessary to address any issues identified. There is also scope for stakeholders to highlight other issues that the Inquiry is not aware of currently so long as these fall with the Terms of Reference. Participants will be permitted to first make their presentation followed by questions from the Panel and Technical Team.

To maximise the benefits of the public hearings, the Inquiry would like to hear from platforms themselves (both large and small), businesses making use of platforms, relevant organisations (business and non-profit), government (incl. agencies) and the public. The Inquiry would also primarily like to hear from the business and organizational representatives rather than external legal or expert representatives. Stakeholders need to ensure that suitably informed business and organizational representatives are present to answer questions from the Inquiry Panel and Technical Team on the main areas covered by the submissions. Stakeholders that wish to make representations of a legal or expert nature can request the Inquiry for a separate engagement following the public hearings, which can also accommodate a discussion on confidential information.

The public hearings in November will be held entirely public with no provision for a private breakout to cover confidential information. Stakeholders wanting to make confidential submissions may make written submissions and claim confidentiality or request the Inquiry for a private session following the public hearings.

CALL FOR PARTICIPATION IN PUBLIC HEARINGS

Stakeholders that wish to participate in the public hearings must submit a request to participate using the "Inquiry Hearing Form" on the website and send to the Inquiry email address (oielmi@compcom.co.za) by 17h00 on 30 September 2021. The request must set out the nature of the submissions to be made at the hearing, as well as the individuals that will be present at the hearings to make the submissions and respond to questions from the Inquiry Panel and Technical Team.

The period for the public hearings is limited and there may not be sufficient time to accommodate all stakeholders that have expressed interest. For this reason, the Inquiry will use its discretion as to which stakeholders will be allowed a slot to participate in the hearings and the length of time granted. The Inquiry is likely to give preference to those stakeholders where public engagement is able to contribute to a deeper understanding of the issues beyond what can be obtained from the written submissions. However, all submissions will form part of the record even if the stakeholder is not granted a slot at the hearings.

The Inquiry may require that a stakeholder also address the Panel and Technical Team on any relevant issue in addition to the main areas covered in the submission. The Inquiry may also use its discretion to require the participation of any stakeholder that has not requested participation, but which can materially contribute to the work of the Inquiry. In each such case the Inquiry will communicate with the participants prior to the public hearings to permit preparation.

The Inquiry will publish on its website the schedule for the public hearings on 7 October, including the participants and the length of their time slot (split between presentation time and question time) for each of the hearing days. The public hearings will attempt to group together participants making submissions on the same type of platforms. The preliminary running order that is subject to change would be delivery platforms, eCommerce, travel accommodation, app stores and online classifieds, with submissions from government, regulators, organisations and the public interspersed between platform types.

GUIDELINES FOR PARTICIPATION IN PUBLIC HEARINGS

The Guidelines for Participation in the Inquiry published on the Inquiry website contain general instructions for participation in the public hearings, and stakeholders are advised to review these prior to participation.