



30 September 2021

Online Intermediation Platforms Market Inquiry
Competition Commission of South Africa
oiptmi@compcom.co.za

Submission of Google LLC to the Online Intermediation Platforms Market Inquiry in relation to the Further Statement of Issues dated 17 August 2021

INTRODUCTION

1. This submission sets out Google's response to the South African Competition Commission's Further Statement of Issues concerning its Online Intermediation Platforms Market Inquiry published on 17 August 2021 (the "**FSOI**").
2. Google welcomes the opportunity to engage further with the Commission's inquiry following its response to the Commission's first Statement of Issues dated 19 May 2021.
3. Google remains eager to engage with the Commission and support the Online Intermediation Platforms Market Inquiry (the "**Inquiry**") in its efforts to ensure that South African tech ecosystems remain competitive and continue to grow, helping local businesses reach consumers with ever greater ease. While many of the platforms the Commission is considering - including Google's platforms - operate globally, it is important to recognise that the South African market has evolved differently to other worldwide markets. When the Commission considers global platforms, it is necessary for it to pay particular attention to the way that technological ecosystems have developed in South Africa, and the impact of local competitive dynamics.
4. Google has a long-standing commitment to South Africa, and views South Africa as being at the forefront of technological developments in Africa.¹ Google is also committed to providing opportunities to South African developers and businesses on its platforms.

¹ For example, there are an estimated 118,541 developers living in South Africa, which is more than in any other African country. See e-Conomy Africa 2020: Africa's \$180 billion Internet economy future, page 29, available at: <https://kstatic.googleusercontent.com/files/ad1166fd6e3289b5e6445c73e4cff5bbb9df1927d35cff4f4b5efa8ebb4fe16620d5ddb499d17956ea850bcac8f6d05faf1c2f1ca7f558bf1296b5303958f334>. See also: <https://www.blog.google/around-the-globe/google-africa/understanding-africas-180b-internet-economy-future/>.



5. The Commission has encouraged stakeholders to provide their views on those platform categories with which they are familiar.² Google's response is therefore focused on its Shopping, Travel and Play services. These are the Google products on which the Inquiry focuses.
6. This response is split into three parts: Part A provides our comments on specialised search services provided by Google Shopping and Google Travel and Part B provides our comments on Google Play, Google's app store for devices using the Android operating system. Part C provides more detail on how Small and Medium Enterprises ("SMEs") and Historically Disadvantaged Persons ("HDPs") can use Google's services to promote and grow their businesses, and the programmes Google has introduced that assist in empowering SMEs and HDPs.

PART A: SPECIALISED SEARCH - SHOPPING AND TRAVEL

7. As part of the FSOI, the Commission is considering ecommerce marketplaces and travel and accommodation aggregator services. The FSOI specifically mentions Google Shopping and Google's travel products in this context.³
8. The Commission remarks on the large number of global and local platforms, with diverse business models that compete in relation to ecommerce and travel in South Africa. Google agrees that there are a range of platforms with differing models competing in these areas. But Google considers that the FSOI overlooks some important aspects of how Google's services compete in this landscape. Google explains below that its specialised search products are innovations that improve the user experience: Google faces strong competition in South Africa from local and global providers and its products play a valuable role in showcasing the offerings of business users (including South African firms, whether SMEs, HDP-owned businesses or otherwise), making these offerings more accessible to consumers.

I. Google Shopping and Google Travel benefit consumers and business users

9. Like other general search and search advertising services, Google started out by showing plain blue link results leading to web pages, along with plain text ads. Google generated these results by crawling web pages, storing crawled data on these pages in a web index, and ranking the web pages based on generic signals related to characteristics of the webpage, such as how closely the text and title of the webpage matched the query and the webpage's link relations.

² FSOI, paragraph 4.

³ FSOI, paragraphs 10 and 35.



10. In the early 2000s, general search services began realising that relying only on crawled web data and generic signals derived from these data did not produce good results for all types of queries. This led Google - and other general search providers - to innovate by creating specialised search results for particular information categories, such as consumer goods, hotels and flights. Google also enriched its ad formats so that these could show users more relevant information. The display of specialised search results and ads are therefore innovations that enable Google to show higher quality results and ads.

Google Shopping

11. Google Shopping is Google's specialised product search property (available at google.com/shopping) where users can search for and compare product offers. Like other ecommerce platforms, Google Shopping provides product search and comparison functionality. However, unlike ecommerce marketplaces such as Amazon, Takealot, Yuppiefchef or Loot - or the online shopping portals of South African brick and mortar retailers (e.g. Woolworths or Pick n' Pay) - no transactions are completed on Google Shopping. Users are connected to third party sellers (or "**merchants**"), complete the transaction on the merchant's website, and then make payment to the merchant directly.

12. The FSOI describes the business model of Shopping as being "*to draw in consumers through marketing the benefit of price comparison across many retailers, and then charge the business users on a cost per click (CPC) basis*".⁴ Shopping does not "*draw in*" users. Users who know what they are looking for can go directly to a retailer's website - but users who wish to browse and compare goods find the results presented by Google Shopping useful. Ecommerce marketplaces similarly allow users to search and compare. Not only does Google Shopping provide users with relevant and useful results, it also gives South African businesses the opportunity to show their products to users through ads or free listings:

- **Free listings:** A merchant's products will appear in the free listings on the Shopping property if it has a Merchant Center account, and has opted into the free listings service. Google does not receive any payment from merchants whose products are included in the free listings on the Shopping property.
- **Ads:** Merchants can also choose to show ads for their products (including, but not only, Shopping Ads, which contain images and additional details about the product offers). Ads are labelled clearly as 'Sponsored' or 'Ads' to avoid confusion with unpaid results. Merchants that choose to advertise with

⁴ FSOI, paragraph 10.



Shopping Ads are charged on a cost-per-click (“**CPC**”) basis (i.e. the merchant only pays if the user clicks on an ad that leads to the landing page on a merchant’s website). When a merchant is creating a Shopping campaign, the merchant decides how much they are willing to pay for each click. The merchant will only have to pay the minimum amount necessary to rank higher than the advertiser immediately below it (which may be a lower amount than it was willing to pay). Advertisers often end up paying less than their CPC bid because the auction is a modified second-price auction. Advertisers can also change their bids at any time.

13. An illustration of how free listings and ads appear to users on the Shopping property is shown in Figure 1 below. These show that ads appear separately from the free listings, and are clearly labelled to distinguish them from organic results.

Figure 1: Google Shopping results page

The screenshot shows a Google Shopping search for 'running shoes'. The search bar at the top contains 'running shoes' and the Google logo. Below the search bar are navigation tabs for 'All', 'Images', 'Maps', 'Shopping', and 'More'. The location is set to 'Randburg, South Africa'. On the left side, there are filters for 'Show only' (On sale), 'Price' (ranging from R 200 to R 2 000), 'Colour', 'Brand' (Nike, adidas, SHEIN, Under Armour, ASICS, Altra, New Balance), 'Department' (Men, Women, Unisex, Children, Boys), 'Type' (Shoes, Boots), 'Style' (Casual, Active), and 'Size' (ranging from 1 to 14).

The main results area is divided into two sections, both highlighted with red boxes. The top section, labeled 'Shopping Ads' with a blue arrow, contains six sponsored product listings. Each listing includes a product image, a 'SALE' badge, the product name, a price, and the retailer's name. The bottom section, labeled 'Unpaid results' with a blue arrow, contains eight organic product listings. Each listing includes a product image, the product name, a price, and the retailer's name. The results are sorted by 'Relevance'.

Google Travel

14. Google's travel products (in particular, Hotels, Flights and Vacation Rentals) are available in South Africa and similarly provide users with useful and relevant results about their accommodation and flight options, while allowing travel providers to showcase their offerings to consumers:

- On Flights and Vacation Rentals, all results shown to users are organic (i.e. flight providers cannot pay to promote their flights to users);
- On Hotels, users may be shown Hotel Ads along with organic results, and may also be presented with both paid (ads) and unpaid links to book rooms in a



particular hotel. The ads are always clearly labelled to avoid user confusion and shown separately to the organic results.

II. Google Shopping competes with other product search providers for user attention and retailer offers

15. The FSOI indicates that there are two main business models for ecommerce stores and a “further” category of comparison shopping services, which includes Google Shopping.⁵ It is clear even from this description that Google Shopping is just one of a large number of ecommerce providers in South Africa. Despite different business models, these platforms all compete vigorously for user attention and relationships with retailers.
16. The FSOI indicates that preliminary evidence shows that a homegrown platform, “has a substantial share of all eCommerce in South Africa”⁶ and that Amazon has significant sales into South Africa despite not having a dedicated marketplace for the country. The FSOI sometimes refers to a “shopping comparator segment”, but Google considers this to be an artificial distinction that ignores the reality of competitive dynamics. For example, price comparison services allow users to search for and compare products. Many ecommerce platforms that facilitate sales onsite offer the same or similar functionality to users, including allowing users to search for and compare multiple competing offers for a single product. Consumers tend to use a combination of these platforms to fulfill their online shopping requirements.
17. The FSOI also notes that suppliers (including brick and mortar retailers) may have their own online shopping capabilities. These benefit from brand recognition and customer loyalty which lead consumers to seek out these platforms for their purchases.
18. It will also be important that the Inquiry considers the unique features of the South African online retail landscape, and how this has evolved, which may differ from other countries. For example, as an emerging economy, the development of South Africa’s tech ecosystem has been faster than other countries as South African retailers and ecommerce providers have had to adapt rapidly to online offerings to keep up with the move to digital forums. By contrast, other economies had a longer, but slower ramp-up. South Africa has also been constrained by factors not present in more developed countries, such as slow internet speeds and a greater proportion of customers that do not have access to digital modes of shopping. As a result, online retail has not followed the same trajectory as some other countries, moving straight to a position where merchant platforms and online resellers are the ‘go to’ online shopping

⁵ FSOI, paragraphs 9 and 10.

⁶ FSOI, paragraph 13.



brands, and skipping the period where product search aggregators were prevalent (as in Europe in the 2000s).

III. Google's travel products compete with other travel search providers for user attention and relationships with travel providers

19. The FSOI distinguishes between online travel agents (“OTAs”) and metasearch engines (“MSEs”) / travel aggregators.⁷ According to the FSOI, OTAs allow users to complete booking for travel experiences, car rentals and flights on the OTA platform. MSEs, by contrast, provide ads or “leads” for OTAs and other travel/accommodation providers, which refer travellers to those websites to complete bookings.⁸
20. Google's travel products compete for user attention with a wide variety of travel search providers - including OTAs, MSEs and hotel and flight providers that allow consumers to book directly.⁹ These all offer consumers ways to search for and book a particular accommodation or flight option. On Google Hotels/Vacation Rentals/Flights, users complete the booking directly on the travel provider's website, but OTAs typically complete the transaction on their website.
21. South African consumers have a diverse range of OTAs/MSEs to choose from when booking holidays. This includes domestic platforms like Travelstart, as well as platforms operated globally such as Booking.com, Airbnb, Agoda, za.hotels.com, Trip.com, Skyscanner, eDreams ODIGEO, Hostelworld, HotelsCombined, Cheapflights, Kayak, Tripadvisor, Trivago and Expedia.¹⁰ Google is still a relative newcomer in this area, with relatively limited consumer usage in comparison to more established providers.¹¹ South African travel aggregators are also steadily growing in popularity with South African consumers. Particular examples include: Travelstart (which owns Safarinow), Travelcheck, Afristay, LekkeSlaap, TravelGround, Computicket, SA-Venues, SA Places, Rooms4Africa, Travelcheck and Travel.co.za (which describes itself as “*South Africa's largest holiday website*”).¹²

⁷ FSOI, paragraph 27.

⁸ *ibid.*

⁹ For instance, Airbnb considers Google's “*search travel products*” to be among its competitors globally and in South Africa - see Airbnb's response to the South African Competition Commission's request for information dated 19 May 2021 (available [here](#)), paragraph 8.5.3.

¹⁰ FSOI, footnote 3. See also Similarweb's record of the “*Top sites for Travel and Tourism around the world*”, available at [Top Travel And Tourism Websites Ranking by Traffic in August 2021 | Similarweb](#).

¹¹ FSOI, paragraph 30.

¹² FSOI, footnote 4. See also Similarweb's record of the “*Top sites for Travel and Tourism for South Africa*”, available at [Top Travel And Tourism Websites Ranking in South Africa \[August 2021\] | Similarweb](#)).



22. It is easy for consumers to move between different travel search providers as they search for the best travel deal. The FSOI acknowledges that many consumers multi-home across travel and accommodation providers.¹³ This stimulates competition between these aggregators for user attention, and encourages business users to list their offerings on more than one platform, to maximise the chance of being discovered by users.

23. Direct booking with a provider also remains a popular option for accommodation and air travel. This often allows users to get a better rate: some travel providers charge lower rates for direct bookings as it allows them to save on paying commission to a travel aggregator. Google's travel products do not however charge a commission (as explained above, travel providers' results may be shown in the free listings, or else they generally pay on a 'cost per click' basis if they choose to show Hotel Ads).

IV. Google's position in general search and search advertising does not provide Google Shopping or Travel with an unfair advantage over competitors

24. The FSOI suggests that the "*near universality of Google search in South Africa and its role in search marketing*" raises the same questions as in Europe over "*preferential treatment for Google Shopping*".¹⁴ The FSOI suggests that "*the same questions*" arise as regards Google's travel products.¹⁵ Google encourages the Commission to examine Google's Shopping and Travel products - and the benefits they provide to consumers and business users - more closely. The Commission should also consider these questions in the context of the South African market, as this will demonstrate that these inferences are unjustified, as explained in more detail below.

25. *First*, as explained in Section I, Google's Shopping and Travel products are innovations that have enabled Google to improve its general search and search advertising services. Specialised search results and specialised search ads provide users with more helpful formats to review information relevant to their searches. For example if a user enters a query in Google Flights for "*flights from Cape Town to Durban*", then Google will show results from nearby airports, with a choice of airlines, routes and prices. The reason Google does this is quite simply that it provides a better experience to users who wish to navigate easily between different results.

¹³ FSOI, paragraph 33.

¹⁴ FSOI, paragraph 20.

¹⁵ FSOI, paragraph 35.



26. *Second*, the European Commission (“**EC**”) itself has emphasised that the EC Decision is based on the specific circumstances of that case and cannot be applied more broadly without careful assessment.¹⁶
27. Other regulators have reached different conclusions to the EC when assessing the same business practices. For example:
- **US Federal Trade Commission (“FTC”)**: The FTC dismissed complaints against Google’s specialised results, holding that they represent a product improvement for users. The FTC stressed that “*product design is an important dimension of competition and condemning legitimate product improvements risks harming consumers*”. It concluded that Google’s display of specialised results “*could plausibly be viewed as an improvement in the overall quality of Google’s search product*”.
 - **Brazil’s Administrative Council for Economic Defence (“CADE”)**: In June 2019, CADE closed its investigation in relation to Google’s display of Shopping Units, with no finding of infringement. CADE stressed that “*Google innovated to improve the quality and experience of online searches for users, which is considered to be a pro-competitive behavior.*”
 - **Canadian Competition Bureau**: The Canadian Competition Bureau found no infringement regarding Google’s search ranking or display of specialised results. It found that “*although Google frequently makes changes to the algorithm it uses to rank search results, [...] Google’s changes are generally made to improve user experiences*”.
28. The High Court of England and Wales in *Streetmap v Google Inc* also dismissed complaints raised against Google’s specialised results (in that case, a thumbnail map from Google Maps on the google.com search engine results page (“**SERP**”). The court observed that Google’s display of this type of specialised result was an “*indisputable*” product improvement for general search and “*procompetitive*”.¹⁷
29. The comparison with Europe also fails to take into account that in South Africa, the online retail landscape has evolved differently to other countries. There are relatively

¹⁶ Commissioner Vestager has [emphasised](#) the need “*for a case-specific analysis to account for the specific characteristics of each market*” and [noted](#) that different specialised search results “*have important differences....[s]o we need to look individually at each of those services*”. See also European Commission, [Press Release](#), Statement by Commissioner Vestager on the EC’s decision to fine Google € 1.49 billion for abusive practices in online advertising, 20 March 2019 (“*What we’ve found is that those different specialised services have some things in common - but they also have important differences. So we need to look individually at each of those services.*”).

¹⁷ *Streetmap.EU Ltd v Google Inc. & Ors* [2016] EWHC 253 (Ch), paragraph 84.



few product search aggregators in South Africa (unlike in Europe, where many product search aggregators started to gain traction in the 2000s), and these have not become 'go to' platforms or household names in the same way as other ecommerce marketplaces. Rather, South Africa appears to have skipped the product search aggregator phase that happened in Europe (likely due to the delayed expansion of digital commerce in South Africa). Instead it is the online platforms of established retailers and online ecommerce marketplaces that are popular in South Africa.

30. *Third*, the FSOI mentions that “*in recent years the search visibility performance of PriceCheck deteriorated and Google Search has quickly grown*”. Even if this is the case, this is not a result of Google’s presence in general search. Although the Shopping Unit appears on the google.com SERP, it appears in the space that is reserved for ads and not the space for free results. Google decides whether to show text ads or a Shopping Unit for any query by comparing the quality and performance of Shopping Ads versus text ads. The ability of third party price comparison sites to appear in the organic results as blue links is unaffected.
31. *Fourth*, and contrary to the concerns expressed in the FSOI, the size of the Travel Unit on google.com also does not disadvantage competing travel search providers as the Travel Unit is an organic result (i.e. it only appears - and its ranking depends - on its relevance to the user’s query as compared to other organic results). Even when the Travel Unit appears, the majority of the search results page remains free for the display of other organic results, and ads (in the dedicated ad space on a page), providing ample opportunity for travel providers’ websites to be listed and discovered by users.
32. *Fifth*, the FSOI notes that “*Google Ads and MSEs constitute a substantial portion of total marketing spend for OTAs*”.¹⁸ While it is true that many OTAs do use Google Ads, this is because they find it a useful way to advertise their services across both Google and third party properties, alongside other online and offline marketing channels.
33. Google’s “*dual*” presence in search advertising and travel search aggregation provides it with no conceivable advantage over competing OTAs, MSEs and travel providers.¹⁹ In particular:
 - Google does not promote its own travel search products through Hotel Ads (i.e. Google will not run a campaign through Hotel Ads encouraging users to visit the Flights or Hotels properties). As noted above, the Travel Unit on google.com is an organic unit.

¹⁸ FSOI, paragraph 34.

¹⁹ The FSOI remarks on the supposed “*dual role of Google as an important means of platform marketing through Google Ads and the development of its own travel MSE ecosystem.*” See FSOI, paragraph 40.



- Whether ads show in a given ad slot on a Google property (including ads for OTAs, MSEs and travel providers that are using Google’s advertising tools) depends on the objective outcome of an ads auction. For example, Google Ads determines the order in which search ads appear by calculating each ad’s Ad Rank for every search ad request. Generally, the ad with the highest Ad Rank is displayed in the top position and the ad with the second-highest Ad Rank shows in the second position (assuming both ads meet the relevant thresholds), and so on. Ad Rank does not depend on the bid amount alone. Ads that don’t meet the quality thresholds will not be eligible to run regardless of the bid amount. Further, the highest bidder will not necessarily be the highest ranked ad. A higher quality ad with a lower bid can outrank a higher-bid and a lower-quality ad. In this case, the higher quality ad with the lower bid will be displayed first.²⁰
- Ads on the google.com SERP only display in the demarcated ad space. Studies show that a webpage with too many ads is a bad experience for users, so Google has every incentive to ensure that ads on its properties (including the google.com SERP) only display in the dedicated ad space. Ads shown do not reduce the space available for organic results, and Google also always marks sponsored results clearly and sets them apart from the organic search results.²¹
- Google’s display of ads does not impact the ability of South African travel providers to appear in the organic search results.²² Organic results are not influenced by any commercial payments, but selected based on several factors, including user intent and relevance signals. Websites that use Google’s ads services - and those that do not - are all treated equally by Google’s search algorithms. If relevant and useful to the user’s query, South African providers therefore have every opportunity to appear in the top ranked results .

34. The FSOI also refers to the role of search optimisation services in enabling travel search providers to appear prominently in Google search results.²³ Google does not offer search optimisation services. While some providers may make use of such services provided by third parties, Google’s search algorithms are designed to find the most useful and relevant results for a user’s query looking at a range of factors, including user intent and relevance.

²⁰ See the Google Ads Help Centre on “About ad position and Ad Rank”, available at: <https://support.google.com/google-ads/answer/1722122>.

²¹ See “Why we sell advertising, not search results”, available at: <https://www.google.com/about/honestresults/>.

²² The FSOI expresses concerns about how inclusion of promotional results can affect rankings/discoverability of South African travel providers. See FSOI, paragraph 42.

²³ FSOI, paragraph 34.



V. Google Shopping and Travel facilitate opportunities for business users to compete for user clicks

35. Google Shopping creates opportunities for business users to be discovered by consumers in either the free listings or ads displayed on the Shopping property. Google does not have its own “*retail offering*” in South Africa therefore the questions that the FSOI indicates may arise for retailers with “*hybrid models*” do not arise.²⁴ Google Shopping has no incentive to prefer certain business users’ listings over others and, indeed, it would be unable to do so given that free listings are ranked based on factors such as relevance, and ads displayed depend on auction outcomes.

36. Similarly, Google does not own or operate an OTA. Google Travel does not provide flights, accommodation, or travel experiences itself. Google instead connects users to OTAs and MSEs, which provide Google with feeds of itineraries, prices and availability, and OTAs can participate in the free booking links on the Hotels property or can display Hotel Ads.²⁵ Consequently, the following concerns about vertically integrated OTAs/MSEs raised in the FSOI do not apply to Google’s travel offerings:²⁶

- Google has no incentive or ability to offer a “*ranking boost*” to particular travel services.²⁷ Google’s free listings on the Travel properties are ranked organically - these are not influenced by any commercial payments. This means that business users, whether big or small (and including South African SMEs and HDP-owned companies), have the ability to appear in the free listings if they offer a quality service. This allows SMEs and HDP-owned travel providers to compete effectively against more established providers.
- Google does not use disguised sponsored rankings as unpaid listings to “*distort consumer choice*”. Payments and promotions by travel providers do not impact performance in Google’s organic search results, and Google clearly labels sponsored posts and ads to avoid user confusion. The FSOI acknowledges that

²⁴ FSOI, paragraph 22.

²⁵ First Statement of Issues, paragraphs 4.9 to 4.12.

²⁶ FSOI, footnote 6. The Commission noted in paragraph 29 of its FSOI that: “[s]everal large global platforms also operate MSEs which may direct bookings to their OTAs, causing possible concerns of self-preferencing.” Google does not own an OTA - in contrast to Booking Holdings, which incorporates MSEs Kayak.com, Cheap Flights, HotelsCombined and Rentalcars as well as OTAs Agoda and Priceline; or the MSE Trivago, which is part of the same corporate group as the OTA Expedia.

²⁷ The Commission noted in paragraph 41 of its FSOI that: “[a] common practice is to offer a ranking boost in exchange for a higher commission fee. In some instances, this is offered to only the better performing accommodation providers (i.e. providers that receive the most bookings, high customer ratings and positive customer reviews) but it is still in exchange for a higher commission.”



labelling sponsored results as ‘Ads’ (as Google does) is a “*transparency solution*”.²⁸

- The FSOI claims that “*the major global platforms all have loyalty schemes designed to drive repeat business and lock in travellers to the platform*”.²⁹ Google offers no such loyalty schemes or travel bundles.³⁰ It also does not use price parity clauses: the prices reflected in Google’s unpaid travel listings or Hotel Ads reflect the prices that providers upload to their feeds.³¹ Providers can set any prices (or other terms) that they choose as they transact directly with consumers.

PART B: APP STORES - GOOGLE PLAY

37. Google Play is Google’s mobile app store where consumers can find and download apps, games, movies, TV shows, books and other products. The FSOI identifies the Play Store as an application store that is of interest in the Commission’s Inquiry.³²

38. The Commission remarks that app stores serve to enhance the value of devices to consumers through offering a wide range of applications, while providing app developers with access to development tools and a marketplace to reach users.³³ Google agrees with these observations, but does not agree with the questions that the Commission raises about the ways in which Google’s services compete in this landscape.

39. Google explains below that Play faces strong competition from other app stores, on Android and other mobile OSs, with the recent changes in commissions on paid-for apps being clear evidence of price competition.³⁴ This point is addressed further at paragraphs 49 - 51 below. The Play Store strives to treat developers fairly and equitably,

²⁸ The Commission noted in paragraph 42 of its FSOI that: “[a] *transparency solution of labelling results that are the subject of sponsored ranking as ‘Ads’ to inform consumers was applied to some of the global platforms and appears to have been applied universally, including South Africa. This is not the case with all platforms though and domestic platforms are not subject to this requirement.*”

²⁹ FSOI, paragraph 36.

³⁰ The Commission noted in paragraph 29 of its FSOI that: “[t]here is a trend towards promoting the sale of bundled travel packages by OTAs which effectively act as a one-stop-shop to satisfy consumer travel needs, but it seems South Africans make limited use of bundles currently [...] Consumers are typically attracted by the discounted bundle or upsell price.”

³¹ FSOI, paragraph 38: “Price parity provisions are common across both global and local platforms”.

³² FSOI, paragraph 76.

³³ FSOI, paragraph 75.

³⁴ Referred to at FSOI, paragraph 81.



whether big or small, whether third-party or within Google, and regardless of where the developer is located. In particular, Google is committed to offering opportunities for South African developers to succeed on the Play Store.

I. Play faces strong competition from other app stores and distribution channels (on Android, and other mobile OSs as well as other devices such as PCs and games consoles)

40. The FSOI states that the Google Play Store is one of the “*leading platforms in South Africa based on site traffic, active users and annual transactions*”, with Google being “*the largest due to the Android Operating System (“OS”) being prominent in most smartphones in the country*”.³⁵ However, unlike other mobile OSs, Android is not a closed OS. This means that anyone can build devices using the Android OS for free under an open source licence. It also means that Android devices offer multiple channels for developers to reach consumers. Developers can use app stores of their choice, including Play and third party app stores; they can negotiate preload deals with OEMs; they can offer downloads directly from their websites; and they can distribute their services on web browsers. The use of an Android device does not tie users to using the Play Store, and Google Play faces strong competition from other app stores even on Android devices. In addition to the competition Google faces on Android devices, consumers can also access content across other types of devices, including iOS phones, games consoles and PCs.

41. *First*, it is important to remember that Google Play was originally developed to compete against Apple, which does not allow competing app stores on its devices. With a free open source licence, Android lowered barriers to entry and enabled dozens of OEMs to produce differentiated, high quality smartphones and tablets at lower prices than ever before. For example, Android has helped create the opportunity for competition between app stores on smartphone devices themselves, including between Google Play and first party app stores offered by device manufacturers such as Huawei and Samsung. Prior to Android, many consumers did not have a good alternative to iOS devices with only the Apple App Store preinstalled and which could not be loaded with any alternative app stores.³⁶

42. *Second*, competing apps (including an app store) can be side-loaded on an Android device.³⁷ Sideloaded provides a viable way for app developers - including South

³⁵ FSOI, paragraph 76.

³⁶ FSOI, paragraph 77.

³⁷ For example, the Amazon app store can be sideloaded straight from the internet without using the Play Store: <https://www.amazon.com/gp/mas/get/android>.



African developers - to distribute their apps to users, particularly in circumstances where the app is well known and users are motivated to seek it out (e.g. the ABSA banking app). Sideloaded apps can take place via downloads directly from a developer's website. However, it can also take place via peer-to-peer transfers between devices (for example, when devices are connected via bluetooth). Peer-to-peer sharing of apps is an important tool in countries like South Africa where internet access can be less reliable or not always available to users.

43. The FSOI mentions that sideloading may be discouraged due to claims of security risks.³⁸ But informing consumers of the risks of side-loading does not prevent them from side-loading. It is important that users are able to make an informed choice before downloading an app. Users are security conscious, and expect that their mobile OS provider will inform them of potential risks to their device's safety.
44. *Third*, Google disagrees that "once a consumer has selected the ecosystem, there is typically no competition for the app store as a source of apps".³⁹ Google does not restrict users from using a different app store at any point once they have selected an Android device. In addition to Play, Android users can access many other app stores - including Softbank App Pass, Samsung Galaxy Store, LG SmartWorld, Opera Mobile App Store, and Amazon's Appstore for Android. Android app developers can distribute their apps to users through these alternative app stores, as well as directly from their own websites. Indeed, nothing prohibits an Android user from using preinstalled apps, apps installed from Google Play, and apps installed from a third-party app store all alongside each other on the same device.

II. Consumers can switch with ease between mobile ecosystems

45. The FSOI suggests that there is a "post-device selection monopoly" on different OSs, which "may constrain consumers from switching device ecosystems" due to the lack of portability of app purchases to another OS ecosystem. In particular, the FSOI mentions that "app purchases may not be portable to another OS ecosystem".⁴⁰ While the iOS version of an app won't work on an Android device and vice versa, this does not prevent consumers from switching with ease between mobile ecosystems in practice, as developers will often provide apps with comparable functionality and branding on multiple app stores (as well as on games consoles and PCs outside of the mobile ecosystem).

³⁸ FSOI, paragraph 79.

³⁹ *ibid.*

⁴⁰ FSOI, paragraph 80.



46. Many apps use sign-in credentials to authenticate a user's identity and to create app-specific accounts that are tied to an individual and not a device. This allows a user to access the same data (for example, browsing or payments data) from the same app across multiple devices. In doing so, users obtain the same benefits as transferring apps across devices, in a way that is less onerous on the user and avoids any compatibility issues.⁴¹
47. Google also makes it particularly easy for users to download their data and export it from the Google products they use.⁴² For example, Android users can easily download their data and switch to iOS devices, including by using Apple's "Move to iOS" app on the Play Store. Google notes that the reverse is not necessarily true. First, Apple's own apps (such as iMessage) are generally available only on iOS, meaning that users may lose access to those apps (and the data on them) upon switching to Android. Second, whereas Apple can obtain information concerning the apps that a user has installed on their Android device (thereby facilitating a smooth switch to iOS), Apple does not provide an equivalent mechanism for Android to obtain information on apps that a user has installed on their iPhone.
48. It follows from the above that Google does not have any app store "monopoly" on Android devices. Google does not prohibit the use of third-party app stores on Android. As explained above, consumers can - and do - download other app stores and side load apps if they wish to do so. Google is also making it easier for developers to design apps that can be adapted for different OSs more easily. For example, cross-platform tools (such as Google's Flutter) enable developers to produce versions of their apps that work on Android, iOS and other platforms from a single codebase.⁴³

III. Changes in commission on paid-for apps is evidence of price competition

49. The FSOI states that both Apple and Google charge a 30% commission on paid-for apps and have recently reduced commissions for apps yielding less than \$1 million annually to 15%.⁴⁴ The FSOI suggests that this illustrates that "*post-purchase device monopoly on app stores as it affects app developers does not appear to be disciplined*

⁴¹ For example, versions of Google apps available on iOS include Gmail, Chrome, Search, Maps, YouTube, YouTube Music, Duo, Drive, Play Movies & TV, and Google Photos. Play is not available on iOS because Apple prohibits the use of third-party app stores on iOS.

⁴² On the process to export and download data from Google products, see <https://support.google.com/accounts/answer/3024190?hl=en>.

⁴³ Flutter is Google's open-source software development kit that allows developers to create cross-platform applications for iOS, Android, Linux, Windows, and other operating systems. See <https://developers.googleblog.com/2019/12/flutter-ui-ambient-computing.html>.

⁴⁴ FSOI, paragraph 81.



by competition.”⁴⁵ While it is true Google has recently reduced its commission for apps yielding less than \$1 million annually, a review of the circumstances in which this change was made shows that the Commission’s inferences are not justified. In particular, Google’s reduction of its commission differs from Apple’s in that this applies to the first \$1 million in sales each year regardless of a developer’s total earnings. By contrast, Apple only offers a 15% rate if a developer’s net sales fall below \$1 million. As soon as they surpass that limit, all earnings are subject to the higher charge. Google’s pricing is intended to help small developers grow.

50. *First*, any similarities between Apple’s and Google’s respective commission levels and changes are, if anything, illustrative of price competition and demonstrate the countervailing bargaining power of developers. App developers can and do multi-home across different OSs and devices and price is one way in which app stores compete in order to retain and win developers. This is also reflected in the differences between how Apple and Google have structured their commission levels for developers. Other app stores also compete with Google on the basis of commission fees, and are free to set their own pricing policies on Android.
51. *Second* Google incurs significant costs to develop the Android ecosystem, constantly adding new features and improvements. Google invested \$4.2 billion in the Android ecosystem in 2018 alone, and nearly \$30 billion since Android’s inception. Yet Google makes Android available on an open-source and royalty-free basis. It also licenses its suite of high quality, proprietary apps free-of-charge despite billions spent developing these apps. For this reason, Google needs an opportunity to monetise its investment in Android - taking a commission in relation to purchases of paid-for apps is one of the ways in which Google is able to get a return on its investment in the Android ecosystem and to recover its ongoing, significant development costs while preventing “*free riding*”. Google sets its commission at an appropriate level, taking into account market conditions and developers’ demands.

IV. Google treats apps consistently on the Play Store

52. Google’s goal is to help users easily discover apps and games they will enjoy from the millions of apps listed on Google Play. Google wants users to see content that is relevant to them and have a positive experience with the apps they download. Apps that perform best on Google Play are therefore generally those that are high quality and relevant to a broad audience. The best thing a developer can do to increase discoverability is to build an app that people enjoy and recommend to others.

⁴⁵ *Ibid.*



53. The Commission notes that the “sheer volume of app listings means that discoverability is critically important if an app is to gain traction amongst consumers”.⁴⁶ The FSOI also remarks that app stores “have an incentive to assist consumers in finding apps that they will find useful”.⁴⁷ Google agrees with the importance of discoverability and since 2017, Google has increased its emphasis on improving the discovery of quality apps and games on the Play Store, by enhancing the search and discovery algorithms’ consideration of app quality and user engagement.
54. A further observation made in the FSOI is that app stores’ own apps “tend not to be open for consumer ratings and may appear at the top of search lists given the lack of rating”.⁴⁸ This is not the case for Google’s apps listed on Play. These are rated, reviewed, and ranked in exactly the same way as third party apps on the Play Store.⁴⁹ Google applies a level playing field for its own and third-party apps, including applying the same criteria for ranking purposes or when choosing apps for promotion. Google’s policy of equal treatment is publicly available.⁵⁰
55. Apps may be discovered by users through search results (influenced by the user’s query), top charts (influenced by number of downloads) or personalised recommendations. Google Play also has a team of editors and merchandisers that manually select content for featuring and promotion, mainly based on quality and editorial value. Once again, Google applies the same rules to its own apps and third party apps when manually selecting content for featuring and promotion on Play.

PART C: OPPORTUNITIES FOR SMES AND HDPs IN SOUTH AFRICA

56. Google is committed to supporting SMEs and HDPs in South Africa. All policies and support mechanisms made available globally, are available to developers in South Africa, including those who are SMEs and HDP-owned firms. In addition, Google also invests in specific schemes to support SMEs and entrepreneurs in South Africa and across Sub-Saharan Africa.
57. It is important to Google that, in every country where it is present, the developers and business users that interact with its products can succeed and grow. For example:
- Google Shopping allows users to discover new brands and retailers when searching and comparing product offers. In order to ensure product diversity,

⁴⁶ FSOI, paragraph 84.

⁴⁷ *Ibid.*

⁴⁸ FSOI, paragraph 87.

⁴⁹ See <https://support.google.com/googleplay/android-developer/answer/9958766?hl=en>.

⁵⁰ See <https://play.google.com/about/howplayworks/?section=developers&content=equal-treatment>.



Google Shopping wants to attract small merchants - as well as more established retailers - to its service.

- Google Travel allows users to discover a broad range of accommodation and travel providers, including small providers that offer accommodation or flights that are relevant to the user.
- In order for users to discover the app and game that they will enjoy most on Google Play, it is important that this includes quality apps from many different developers, including small and start-up developers.

58. Google offers a range of tools to assist small businesses⁵¹, such as recommended best practices for building successful business apps. These tools are particularly useful for SMEs and HDP-owned developers. In particular, SMEs and HDP-owned firms and individuals have access to the following tools to assist them to engage effectively with Google's products and develop their businesses:

- **The Google Play Academy for App Success:** a free e-learning platform that provides a wide range of information dedicated to assisting developers to learn techniques to encourage sustainable business growth, test apps with users, learn best practices for publishing and releasing apps on the Play Store, find the right audience, acquire more users, learn about the monetisation options, or learn best practices for keeping users engaged.
- **Google for Startups Accelerator Africa:** Google offers a three-month accelerator program to technology start-ups across Africa. The accelerator provides mentorship, technical project support and workshops focused on product design, customer acquisition and leadership development.
- **Google My Business:** a free tool to obtain a verified Business Profile on Google Maps and Search and a free website.
- **Marketing Kit:** a free tool that allows businesses to create free stickers, posters and social media posts.
- **Market Finder:** a free tool that helps businesses to identify new potential markets, discover helpful operational information and start selling to customers in South Africa and around the world.
- **Digital Skills Trainings:** free training and mentorship for SMEs (including those owned by HDPs) on various digital marketing topics.
- **Google for Small Business:** a free tool to help businesses grow their online

⁵¹ For further information see: <https://learndigital.withgoogle.com/digitalskills>.



presence.

- **Grow My Store:** a free tool to help businesses improve their retail websites.

59. Google is also specifically supporting economic development by supporting SMEs and entrepreneurs in South Africa and across Sub-Saharan Africa⁵² through a number of ongoing initiatives:

- Google has helped 45 000 small-to-medium businesses in Sub-Saharan Africa to establish an online presence over the last 12 months⁵³
- Google has offered 40 000 developer scholarships to beginner and intermediate developers across Africa in 2021.⁵⁴
- Google is focusing its training on Black and female founded organisations⁵⁵, having trained over 5 000 female founders in South Africa to date.
- Currently, through a \$500 000 (approximately R7.5 million) grant to YES, 165 young Black South Africans are on a one-year long work placement program.
- Google has provided a community grant of \$50 000 (approximately R750,000) to Thought Africa to distribute EduCare packs to children who are out of school as a result of the Covid-19 pandemic, and Pride of Africa received a \$60 000 (approximately R900,000) community grant to support the LGBTD+ community affected by the pandemic.
- Through the Small and Medium Business Covid-19 relief grant, Google has assisted Prækelt.org to reach 12 000 SMEs with information and support through the SMME Start project⁵⁶ via chatbot to help them survive and thrive in the difficult current economic climate.

⁵² See for example: <https://www.itweb.co.za/content/5yONP7EgeOOqXWrb;>
[https://www.goodthingsguy.com/lifestyle/google-free-online-courses/;](https://www.goodthingsguy.com/lifestyle/google-free-online-courses/)
[https://smesouthafrica.co.za/business-opportunities-monthly-march-2021/;](https://smesouthafrica.co.za/business-opportunities-monthly-march-2021/) and
[https://www.westerncape.gov.za/site-page/jump-digital-business-support-platform.](https://www.westerncape.gov.za/site-page/jump-digital-business-support-platform)

⁵³ See for example: <https://ventureburn.com/2021/06/google-launches-programmes-to-support-african-smes/>,
<https://smallbusiness.withgoogle.com/intl/en-ssa/#/> and
<https://africa.googleblog.com/2021/06/supporting-small-businesses-in-africa.html>.

⁵⁴ See:
[https://www.iol.co.za/business-report/economy/google-provides-african-start-ups-training-boost-f4df45d0-ffe1-44c4-ada9-863881c150b0.](https://www.iol.co.za/business-report/economy/google-provides-african-start-ups-training-boost-f4df45d0-ffe1-44c4-ada9-863881c150b0)

⁵⁵ For further information see: [https://blog.google/outreach-initiatives/grow-with-google/black-women-lead/.](https://blog.google/outreach-initiatives/grow-with-google/black-women-lead/)

⁵⁶ For further information see: [https://www.itweb.co.za/content/JBwErVnBnVjv6Db2.](https://www.itweb.co.za/content/JBwErVnBnVjv6Db2)



- With Google Career Certificates⁵⁷, 1 000 scholarships are being distributed by Grow with Google through Harambee, YES, Africa Coding Network, Quirky39, RLabs, and Global Citizen to equip African youth with skills in high demand career fields.
- 850 scholarships have been created to provide learning opportunities, scholarships, wraparound support and work placements for young South Africans with \$800 000 (approximately R12 million) in total grant funding from Google being contributed to the non-profit organisations Junior Achievement and International Youth Foundation.⁵⁸

60. The accessibility of Google's services to small business users, together with Google's many initiatives to actively promote SMEs and HDP-owned businesses and economic development in South Africa, demonstrates Google's ongoing commitment to empowering local developers, retailers and travel providers. Google shares the Commission's aim of promoting fair competition among business users (including South African business users) on its online platforms.

⁵⁷ For further information see: https://grow.google/certificates/#?modal_active=none.

⁵⁸ For further information see: <https://www.opportunitiesforafricans.com/google-career-certificate-scholarships-2021-for-young-africans/>.