



**competitioncommission**  
south africa

# **ONLINE INTERMEDIATION PLATFORMS MARKET INQUIRY**

## **PARTICIPATION IN IN-CAMERA HEARINGS**

### **TO BE HELD 23 FEBRUARY – 4 MARCH 2022**

#### **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.

The Inquiry then held public hearings from 2-29 November 2021. The purpose of the public hearings was 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 considered necessary to address on issues identified.

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. Recordings of the public hearings are available on the Commission's YouTube channel. (<https://www.youtube.com/channel/UCfpSJZxdHcryCC20ipPAuCg>)

## **IN-CAMERA HEARINGS**

The Inquiry will be holding virtual in-camera hearings from 23 February to 4 March 2022 to accommodate stakeholders that require to make submissions to the panel of a confidential nature and which cannot be dealt with adequately through confidential written submissions. This may also include submissions of an expert economic or legal nature that traverses confidential information in its analysis. Participants will be permitted to first make their presentation followed by questions from the Panel and Technical Team. Presentations should focus on the confidential aspects and not traverse general points that should have been made in the public hearings.

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 confidential submissions. Where expert economic or legal submissions are made, the experts need to be present to answer questions from the Panel or Technical Team.

Expert economic and legal reports need to be submitted by 17h00 on 31 January 2022 and any presentations for the in-camera hearings need to be submitted 48 hours prior to the hearing slot. Stakeholders that wish to submit expert economic or legal reports but not make oral submissions are also required to submit these reports by 17h00 on 31 January 2022.

## **CALL FOR PARTICIPATION**

Stakeholders that wish to participate in the in-camera hearings must submit a request to participate using the “Inquiry In-Camera Hearing Form” on the website and send to the Inquiry email address ([oielmi@compcom.co.za](mailto:oielmi@compcom.co.za)) by 17h00 on 31 January 2022. The request must set out the nature of the submissions to be made at the hearing and a motivation as to why oral submissions are required in addition to any confidential written submissions. The request must also set out the individuals that will be present at the hearings to make the submissions and respond to questions from the Inquiry Panel and Technical Team. Stakeholders should also indicate the availability of their team within the dates set down for the in-camera hearings to facilitate scheduling.

The period for the in-camera 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 further panel engagement on the confidential written submissions is necessary to inform the work of the Inquiry.

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 and did not participate in the public hearings. In each such case the Inquiry will communicate with the participants prior to the hearings to permit preparation.

The Inquiry will inform stakeholders directly of their hearing date and time slot by 17h00 on 4 February 2022.

Stakeholders that have not been given a slot to participate in the virtual in-camera sessions because of time constraints, may still make written submissions to the Inquiry email address ([oielmi@compcom.co.za](mailto:oielmi@compcom.co.za)).

## **GUIDELINES FOR PARTICIPATION**

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