



## **COMPETITION COMMISSION OF SOUTH AFRICA**

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In the matter of

### **ONLINE INTERMEDIATION PLATFORMS MARKET INQUIRY PUBLIC INQUIRY (OIPMI)**

held at

**DTI Building  
Sunnyside and virtually via MS TEAMS**

on

**12 November 2021**

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**PANEL:** *James Hodge – Chairperson  
And Doris Tshepe*

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#### **TECHNICAL TEAM**

*Itumeleng Lesofe*

*CCSA Internal Team*

*Tshegofatso Radinku*

*CCSA Internal Team*

*Siphosethu Tetani*

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#### **COMPANY: RASA**



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PROCEEDINGS ON 12 NOVEMBER 2021

RASA – Represented by: Wendy Alberts

CHAIRPERSON: Good morning, Ms Alberts.

MS ALBERTS: Good morning. How are you? Thank you so much.

CHAIRPERSON: We are really well, thank you, and I am glad you are not loadshedded and you are with us now.

MS ALBERTS: No, we are completely loadshedded. In fact we are on a rolling blackout, so we are having very many  
10 challenges here because our box has got illegal connections to it and Eskom does not have either the manpower or the budget to actually fix it. So we are now on day five of technical Eskom problems.

CHAIRPERSON: Well that sounds like fun. Ms Alberts, you are representing the Restaurant Association of South Africa. I think you are aware of our inquiry and the scope of the inquiry and I do not know if you are aware of the statement of issues as well that we have put out.

MS ALBERTS: Correct, yes. Thank you.

20 CHAIRPERSON: And I know you – well, I am informed that you do not have a formal presentation to make.

MS ALBERTS: Correct.

CHAIRPERSON: But I wondered if you wanted to start off with highlighting some of the main points you wanted to raise awareness of before the panel and then we can follow up

with some questions. I mean, you tell me how you would like to proceed.

MS ALBERTS: With pleasure. I think I am very happy to start, you know, obviously from the onset. I am going to turn the video off just for more stability if you do not mind.

CHAIRPERSON: If we can keep it on we would prefer that just for the purpose of a public hearing.

MS ALBERTS: Okay, we will try for as long as we can.

CHAIRPERSON: Ja, it is fine at the moment, so – and  
10 maybe just to obviously remind you if you do not know, this is being broadcast as a public hearing and therefore, you know, anything confidential please avoid raising.

MS ALBERTS: Correct. I think, you know, we are one of the critical associations from the onset of COVID that quickly integrated ourselves to being able to bring critical information, clarity content and an understanding to what was absolutely happening.

In the beginning of COVID there was obviously a massive fear. You know, I think that the fearmongering state  
20 really put us into a very disheartened place in the restaurant sector. A lot of people – you know, we spoke about these million graves and we spoke about COVID and the death and all these things, that you can catch it from everywhere. Being in food safety I think one of the things we critically always understood from being food experts is that food

safety has always been a high priority for us.

So the first onset that we had engaged with the Minister. We were – I think everybody was on a flat foot trying to understand. We were no experts at the pandemic. We certainly were no COVID experts and we certainly did not understand the parameters and how Government wanted us to move through. Paramount for us was really keeping the people that eat in our restaurants safe, keeping our staff safe and ensuring we respect Government's decision to act  
10 as the leader as we drove through the changes of COVID.

You know, in hindsight we can always be more critical, but I remember in the beginning we agreed to work very firmly with Government in the position of working and finding solutions that would cause the least economical impact and have the most viability in terms of ensuring that we keep people safe.

In the very early stages of COVID our restaurants were closed, which meant that we still had massive debt that we needed to support. Large portions of our debt really was  
20 landlords, critical to the survival of restaurants. The second major factor was obviously banks and the third major factor was staff. So we got some – there was some engagements that took place very quickly with the banks. Some of them did a deferred payment on the bonds that some of our owners had. Landlords were quite supportive in the first

three months of the lockdown and they certainly did give us some kind of rental holiday or rental deferment or rental write off. And then obviously we moved quickly into TERS and UIF to try and get the relief for the staff.

Our businesses at that stage were not operational. We then got given the go-ahead to move directly into deliveries and this I think is where the critical conversation comes from that we really need to have with each other is on the onset many of our restauranteurs are not delivery  
10 experts. We are sit-down restaurants. There are different types of I guess business blueprints if you want to call it. We have got the takeaways. We have got the restaurants, sit-down cafes, anybody really falls into that. Then we separated to the sort of bars and lounges so to speak, pubs, bars and lounges. And that is how we quickly differentiated what our needs were and our requirements were from that.

The deliveries within the larger franchise groups, I think that model has always been in place for them. They have relationships with the different third party deliveries  
20 and those rates are negotiated from high level managerial decisions based on different mediums, I guess for marketing platforms, rebates, etcetera and they have got a business tool that they have always worked with. Those businesses were quite swift to be open.

As the restaurant industry we certainly called on all

the big players within that market who were not that favourable to actually help the sit-down restaurant industry. You know, I remember we had taken the task to actually write the operational standards or the structure to get the regulations out and then they did not want the rest of the industry to use - sorry, we are back. They did not really want the rest of the industry to use the documentation that was put together and it caused some conflict [indistinct 00:05:54] to lobby to get the sit-down restaurant open.

10           So there was already a competitive approach to surviving the drive-throughs and takeaway businesses as what there was to critically standing in unity as a restaurant industry and everybody sticking together to try and do what we can to survive the industry, to keep jobs, to preserve livelihoods and obviously to preserve the amount of economy – economical push through into our sector. And there were a lot of challenges that came through. At that stage, you know, supermarkets could sell hot food. We could not sell hot food. A lot of erratic decisions that were made at the  
20 time that was disfavourable for us to being able to run our businesses.

One of the key issues was obviously the third party delivery services. It was a space that we had to quickly look at consulting and we consulted the two major players within the sector. The one player was a conversation that took

place with a young lady representative of their particular business and there was absolutely no apathy given to any type of reduction on the fees. And what we found it was either do or die. We had no choice but to use them because that was the structure that the Government had put us into at the level of lockdown that we had at the time in order to keep our businesses afloat.

The other larger player was also non-negotiable in terms of any type of rates and we did approach them. I have  
10 given all that documentation onto the Commissioner. And we were not able to get any relief. It was not only the fact that it was the rates. We had then looked at worldwide trends. The worldwide trend was quite clear that that rates had been reduced to round about 8 to 10% and many of the countries' hospitality counsellors or ministers had actually given directive to cut those rates. We did not unfortunately get that support. We were given the reason that it was during a pandemic and that the law that we operated within did not  
20 make it favourable to be able to take case by case management on contractual law to be able to have renegotiated those rates.

So we certainly felt at that time that the third party deliveries really took advantage of the space that we were in. We were new. They owned large databases which belonged to restaurateurs and to third party delivery guys.

Those databases are housed and owned by the third party deliveries.

So for many restauranters it was very difficult at the time to remodel or to relook at a different third party service. That market became hugely competitive. So there were a lot of new operators into the industry which came in at a far more reduced rate, flat fees. A lot of restaurants then took to be able to do their own deliveries. You know, large groups then used their staff and their vehicles to try  
10 and deliver in the local areas, but unfortunately that – the third party deliveries, the big critical thing for us which has held us ransom is that they own the databases of the customers with our menus and also we were waiting for long term paybacks from the money that was collected to get that paid back to us. So cashflow became critical for us as well, because they were holding money that we had collected on the backend which was not paid over timeously to a number of customers.

So we had a lot of complaints from restauranters  
20 and takeaways, smaller takeaways. Not the franchise groups strangely enough. Only the independents had massive, massive conflict. Call centre lines were down. We could not reach them. Emails were not working. Nobody was responding.

We had a huge number of complaints with the lack



of technical support. Many of the iPads had gone off or the ordering systems had gone off and yet we were still expected to pay the monthly rates, the hiring fee for the components and there was absolutely no concession given back on the hiring of the components or the rebated fee or the onset fee and absolutely no integration from any of those organisations regardless of how many times we reached out to actually do something that was valuable for the industry.

So we also then got a number of the Uber drivers  
10 that – or let me not use the word Uber. Third party delivery drivers had actually approached us to use them directly to the restaurateurs and they had formed or abandoned part of the network to belong to an independent network so to speak to be able to offer those services back into our restaurants.

And then we actually understood and we learnt about the financial model of how complicated it became and how small and miniscule the margins are that the actual operator gets. And then we understood why the food safety was being compromised because at a very small marginal  
20 rate that they pay the delivery guys, it is almost impossible to one, properly insure the motorbike, two, to actually maintain the motorbike, three, to maintain the safety elements and the protocols.

So what we found is that many restaurants at that stage actually made provision to ensure that there was no

break in the food safety from the product leaving the restaurant to getting to the consumers' home. So we were actually providing sanitisation and masks and the back boxes and sanitising them and giving them some kind of support and training, etcetera. And then some of our restaurants were also housing them in proper luminous gear that they could actually be seen on the roads, because it became such a concern that this was not – that their adherence to road safety, the basics were not met with the  
10 guys.

So I know that over time we certainly have tried our very level best to establish a framework to bring alternative suppliers into the business, but the two parties in particular, like I said, we feel that we are almost – our industry is owned by the software, by the system, by the database of the clients and by the availability of the amount of products. They own all our menus. They own all our clients. I mean, it makes it very difficult to be able to switch over and it needs to – you know, that is why we feel that this inquiry is really  
20 good because that really needs to be unpacked and for that to be given in a competitive space that we can actually access our own information.

CHAIRPERSON: Thanks, Ms Alberts. Is that it or are there any other issues you wish to raise in respect of food delivery from the Restaurant Association's perspective?

MS ALBERTS: It became a very critical component to our industry. We could not trade our businesses without the third party deliveries and there should have been an approach taken to have made it affordable. So in a space just to give you financially, which I have already submitted those financials through to the Commissioner, we were only able to trade at round about 8 to 12% of our budgeted turnovers in a space where we were paying out almost 37% to the third party delivery, which made it uncompetitive for us to even trade.

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So we were running our businesses to keep the third party delivery companies in business while the poor driver at the end could not even survive by paying for maintenance or proper equipment to get our food delivered effectively to the consumer. So those were really, really critical challenges for us and I think the inability to engage with any level of senior management within those organisations spoke volumes. There was no collaboration at all. There was no empathy to what was happening in our industry and very quickly the takeaways sector had separated from the sit-down restaurants.

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So, you know, we really got impacted massively by reengineering our businesses, on the sit-down businesses by becoming takeaways, by being deliveries, by being drive-throughs, by being picnic spots, by being roadhouses, by

being bottle stores. We could sell alcohol. We could deliver alcohol. We were coffee shops where we could not trade, dinner time trade.

Throughout this entire lockdown process we have not been able to trade our businesses as proper restaurants. We have had to make many, many infractions on our business models where we have not been able to create the unique experience which our business model was based on. So it certainly has been very difficult for us financially to pay  
10 out those huge amounts of money to third party delivery companies.

CHAIRPERSON: I mean, I suppose the delivery companies would say that they gave you an option or your members an option to actually trade because I think, as you said, I mean I assume most of your members may not have had deliveries. Is that right?

MS ALBERTS: For many of our sit-down restaurants delivery was a new component that we had put onto the businesses, but there was a large portion of our industry of  
20 the independent takeaways, Chinese, sushi, Thai food, your quick serviceable restaurants that are not franchise operations that really took a massive fall with the high rates, because they were only able to trade at such a small capacity given the curfew, the times and the various other elements which I have submitted in the documents to the

Commissioner.

CHAIRPERSON: Yes, now I just want to separate out the COVID, because I suppose, you know, obviously we have gone through that patch and part of what you are indicating is the difficulties that the industry faced, but we are also forward looking on food delivery. It is not just a sort of look back over this period. And I just wanted to raise a few things in relation to that.

I mean, first of all I suppose you have raised the  
10 issue of customer data. You say that the delivery platforms own the customer data and the menus. Is that right?

MS ALBERTS: I am struggling to hear your question.

CHAIRPERSON: Sorry, I just wanted to go to a few of the things you have raised. The first one is just customer data.

MS ALBERTS: Hello. Can you [indistinct 00:16:19].

CHAIRPERSON: We can hear you, Ms Alberts. So can you still not hear us?

MS ALBERTS: No, I am trying a different device. I am going to try and connect on something else now.

20 CHAIRPERSON: Ms Alberts, can you hear us now or not?

MS ALBERTS: We just switched to a different hotspot. We are going to try that for a moment. Okay.

CHAIRPERSON: Alright.

MS ALBERTS: It is a bit more stable.

CHAIRPERSON: Alright. Can you hear me now? Is that

better?

MS ALBERTS: Ja, that is a bit better. Thank you.

CHAIRPERSON: Ja, I do apologise for the technical glitches. Obviously it is a challenge as you have pointed out. I just wanted to ask you first on customer data. You say one of the difficulties was that the third party platforms own the customer data. Is that right?

MS ALBERTS: Correct. So there are agreements in place that give permission to house it, but the way that the third  
10 party system is set up – can you hear me?

CHAIRPERSON: We can. We can hear you. Ms Alberts, are you there?

MS ALBERTS: Sorry, we are just trying to switch over back onto the Telkom router. So sorry about that.

CHAIRPERSON: Not a problem.

MS ALBERTS: Okay, right.

CHAIRPERSON: So sorry, when you talk about the ownership of data, who are we talking about? Are you talking about the delivery platforms?

20 MS ALBERTS: So what a restaurant will do is that the restaurant will give that database to the third party delivery to be able to put into their unique system, which the consumer then will tap into. So on a third party delivery system there could be access to many, many restaurants, not only one restaurant for instance. So you have a choice

and a variety of restaurants to choose from.

CHAIRPERSON: No, I... [intervenes]

MS ALBERTS: So that... [intervenes]

CHAIRPERSON: Ja, so and obviously you have to list in order to get orders from that delivery platform.

MS ALBERTS: Correct.

CHAIRPERSON: Alright. I am just wondering about the customer data. Are you talking about the final end consumer or are you talking about the restaurant?

10 MS ALBERTS: About the third party delivery company, because they tape into the third party delivery to make multiple purchases from various restaurants. Okay. Does it make sense?

CHAIRPERSON: It does. I just wanted to find out – sorry, the issue of consumer data. So I just want to understand what your concern is with consumer data.

MS ALBERTS: Well, for us what we feel is that there are millions of people that use the third party delivery services where we put our information onto that database and  
20 although they are our clients, they choose our product through the platform by utilising what they want from us, but we do not have access to that database but they do pay for the restaurant food or the delivery of the restaurant, but they pay it to the third party delivery.

CHAIRPERSON: So do you – I mean, do you then feel that

that information, who the customer was should be available to your members?

MS ALBERTS: Correct. Correct.

CHAIRPERSON: And for what purpose? To market to them as their customers directly?

MS ALBERTS: So there is a platform which ordinarily lent itself before COVID – so I know this is more so a COVID inquiry, that lent itself to the use of a platform with multiple businesses or multiple restaurants on it. So for instance you  
10 as a customer could order from 20 different establishments or restaurants on that platform and it brought in an extra value of turnover onto our businesses.

So through COVID when COVID came because of the restriction on the amount of turnover that we have had, it cost the restaurant so much more to be able to facilitate the order on the third party delivery because there was not sufficient revenue to be able to support the cost on it. So it became our highest cost. It actually became higher than the cost of leasing or banks or any other charges. It was the  
20 highest expense relative to the percentage operation.

CHAIRPERSON: Alright. I think I understand where you are coming from, because I think certainly the feedback we have also had is that for some restaurants obviously delivery used to be some incremental add on to get access to a few more customers, but at least with the height of COVID it



became the only form potentially, apart from some maybe walk-bys depending on the level.

And have your members seen a lasting effect of that? So clearly we have opened up a lot more right now, but has there been a lasting effect that this is a much bigger part of their sales than it used to be because customers have not necessarily made the journey back to where we were pre-COVID?

MS ALBERTS: I think this is a very interesting conversation  
10 we can have because there is a lot of assumption that goes into my feedback. So first of all, we have not been able to trade our restaurants as restaurants in the capacity of what our business model is. So throughout the entire COVID we have been restricted by hours, time, numbers, alcohol sales and different levels.

The one thing that has remained consistent that we have only been allowed to do is to do deliveries and to do takeaways. Takeaways was not such a large component. Deliveries became a massive component.

20 CHAIRPERSON: And when you say other countries put a cap of 8 to 10%, is that on the delivery charge or what platforms may charge?

MS ALBERTS: Correct. In the same large [indistinct 00:23:18]. Correct. They capped the delivery fees at that time.

CHAIRPERSON: And do you know which countries did that and whether it is still in place?

MS ALBERTS: America and the UK.

CHAIRPERSON: And is it still in place or now they are opening up has that changed?

MS ALBERTS: I must be honest, I have not done any research. If you want me to quickly research it for you, I can and come back to you.

CHAIRPERSON: We will come back to you on that, but  
10 obviously not in this session. Just in terms of that fee, I mean you mentioned that some – that your restaurants pivoted and that it may be that these platforms might say well, you could offer your own delivery if you are not happy with our service. Is that an option for your members, a realistic option?

MS ALBERTS: I missed the question. Sorry, you froze for a moment.

CHAIRPERSON: So Ms Alberts, I was just saying that the  
20 fees you indicated your members think are high. It should be lower given the amount of trade that is going through the platforms. My question really was do your members not have the option of avoiding the platforms and just doing the delivery directly themselves or is that not an option?

MS ALBERTS: So holistically there are many restaurants now that have taken to doing their own deliveries, but there

were restaurants that had contractual agreements with the third party delivery companies that could not use their own deliveries. So that was one of the critical things at the time and then obviously the huge cost to get it to that.

And if you actually look at the breakdown of where the money goes and I mean, I have given that financial model through to the Commissioner to actually look at, so I am not going to rediscuss that, but that is critically what happens is that there is markups on the product within the  
10 platform and there are small pay-outs in terms of commission or a delivery fee to the operator. So the largest margin is actually taken by the third party delivery company as opposed to where we – it was costing us to actually use the third party delivery companies in the initial state of lockdown.

CHAIRPERSON: And sorry, I just want to return to customer data because I do not think we fully finished that off. We got moved to rates. But I mean, you said that obviously these are your customers or your members’  
20 customers and therefore – but that they do not have access to that customer data. I mean, do you think that the restaurants or your members should have access to the customer data from the sales that they undertake?

Ms Alberts, I do not know if you can hear me. I think we have lost Ms Alberts. So I think we will see if we

can get her back, but in the meantime I think we may just take a five minute break. If we do not manage to get her back, we will close the session. Well, it seems that we are unable to get Ms Alberts back due to technical challenges on her side or power challenges. So we are going to end this session and we will resume at 14:00 with Mr Delivery.

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