



## **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

**9 November 2021**

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

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#### **TECHNICAL TEAM**

*Hariprasad Govinda*

*CCSA Internal Team*

*Rahma Leuner*

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*Lumkisa Jordan*

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#### **ROM TECH**



**Gauteng Transcribers**  
Recording & Transcriptions

PROCEEDINGS ON 09 NOVEMBER 2021

CHAIRPERSON: Alright. The next participant in the public hearing is Jacques Keth from Rom Tech who is a Marketplace seller, and he is here to at least give us some insight into his experience from the seller perspective rather than the Marketplace itself. So I think we are just admitting Jacques onto the platform.

Welcome Jacques. I think Jacques you are on mute.

MR KETH: Excuse me. Sorry, I am just setting up here. I will be with you shortly.

10 CHAIRPERSON: Welcome Jacques. I believe you do have a presentation, we will wait for you to set up.

MR KETH: Sure. Can you see my screen?

CHAIRPERSON: I can see that. So Jacques, I am going to leave you to go through your presentation and then we will follow that with some questions.

MR KETH: Okay.

CHAIRPERSON: We have got generally about an hour left in this session so it is all yours.

20 MR KETH: Okay. So let us just start off with who we are. Rom Tech online is an innovative E-Commerce store focussed on customer service and value. We were established in 2017 and we have seen tremendous growth. We specialise in the sale of computing components, networking products and customer electronics.

Our small but capable work force consist of youthful staff that are geared towards providing our customers with service and support

that exceeds markets standards. Just the platforms that we sell on currently, that would be our own website, romtech.co.za, Takealot.com, bidorbuy.co.za, loot.co.za and macro.co.za.

The advertising platforms that we currently use, there is Google shopping, Price Check, Facebook, Instagram and Twitter. The reason for us participating in this public hearing, we seek to discuss and find solutions to problems that we and many other Marketplace sellers face on a daily basis on the Takealot Marketplace platform.

We do not seek to undermine or sabotage Takealot or the  
10 Marketplace platform, but rather want to find solutions and enter a discussion around the restrictions and hardships faced when selling on this platform. We wish to continue to partner with Takealot, build a strong but transparent business relationship that is equally beneficial for both qualities.

We have and I would like to stress this, we had first attempted to resolve the issues that we are discussing today with Takealot directly. Either there has been a sense of unwillingness to listen to and provide solutions to the issues that we face. This in effect has serious consequences and will ultimately negatively affect our financial position.

20 Further we would like to clarify that the issues we are discussing today are not once off events, but are faced grouply. Now the issues we would like to discuss today it is extremely welcome and fair with holding periods for return stock. Takealot falsely stating that return stock was returned to inventories.

This referred to Takealot as good stock. The brand gating.

Stock losses at Takealot warehouses. Takealot's refusal to provide substantial evidence when they claim that Marketplace sellers have short delivered purchase orders., Unfair terms and conditions at the cellular price parity. Unfair service level agreements. Faulty stating that a seller cancelled an order and collecting cancellation fees for orders cancelled by Takealot.

High drop ship order fees and inadequate support in these channels made available to Marketplace sellers and the average turn around times of support and disputing this. Let me start with the first  
10 point. Return stock withholding periods. So as you might be aware, Takealot has a very lax or forgiving returns policy.

This is explained by Takealot to retain and obtain their high customer base. As a result of this, Takealot has a higher than average return rate on products. When a customer returns a product to Takealot, Takealot in turn refunds their customer for an average of five days of receiving the returned product.

If the product was purchased from a Marketplace seller, the Marketplace seller's account is immediately on approval of the return, debited with the sale price of the product minus the originally charged  
20 success fee. The physical product however is not immediately made available to the Marketplace seller.

The Marketplace seller has to wait for Takealot to prepare and pack the returned product and make it available to the Marketplace seller. This process of preparing and packing a return product can and sometimes can sometimes and often does, exceed a year before a

returned product is marked ready for collection.

Once Takealot announces a product is ready for collection, the Marketplace seller has only 15 days to collect the stock before it is disposed of. This has an enormous negative impact on the cash flow of small businesses like ourselves, as the faulty stock needs to be sent to our suppliers who in return need to provide us with either a replacement or a refund.

The stock piles up at Takealot warehouses with no option for us to collect the said stock. Due to the long withholding periods of returned  
10 stock, it is not uncommon for the warranty of a product to lapse before it is made available for collection. Whereby putting further burdens on small business who have now no other choice than to completely write-off said stock instead of claiming warranties.

Takealot now have dedicated turning warehouses in both Johannesburg and Cape Town to deal with this. However, this is not reduced the withholding periods, as we have seen instead it worsened. Moving on, faulty stating products have been returned to inventories. This is a big problem that we face currently.

So further on our previous topic of return stock. Takealot has in  
20 the preparation stages of returned stock, they will determine if a product is suitable for a re-sell. That is when it is unopened or unused and then they would mark these items as good stock. Upon request, but not fully and transparently available to Marketplace sellers on their seller platform, Takealot will provide you with a status of these returned goods.

This will be marked either good stock, bad stock, loss or any

other stages that they might have. Good stock is supposed to be returned to a Marketplace seller's inventory. Instead, Takealot often only mark returned stock as good stock, but does not determine these stock to our inventories.

Sellers do not have the option of choosing of whether they wish to have products return to their inventories or wish to have the products returned to them. This is decided by Takealot only. This leads to more stock losses as a Marketplace seller has no proof that these products were in fact returned to their inventories, but must rather rely on the  
10 word of Takealot and nothing else.

Disputes and stock recons are purposefully made extremely challenging by Takealot to avoid reimbursements for lost stock, often requiring the seller to put on our data that Takealot already possesses but it does not make available to Marketplace sellers. Brand gating. Takealot has made the decision to block Marketplace sellers from selling the Xiaomi brand of products completely.

Brand gating is often imported by for example Amazon to avoid counterfeit or grey goods from being sold on the platform and thereby diminishing the value of the brand. In contrast, Takealot's approach  
20 cannot be compared with that of Amazon, as Xiaomi products are obtained from authorised local distributors.

Takealot has provisions in their terms and conditions for both counterfeit products as well as grey or imported goods, this approach cannot be justified. We have one, two emails here. This is proven. One from Takealot support where they stated a product has been

disabled and not allowed to be sold by Marketplace sellers, and they request us to contact the compliance team.

We occasionally did contact the compliance team, stating here that top management at Takealot has decided not to allow Marketplace sellers to list Xiaomi branded products. There is no other reason given by Takealot for this decision, so we would definitely like to hear from them as to what [indistinct – 00:09:00].

The stock losses at Takealot warehouses. So Takealot does not disclose any stock losses to marketplace sellers when Takealot has  
10 not been made aware of stock losses. Takealot did previously disclose the status of orders that were cancelled due to loss stock at the DC's.

Cancelled by Takealot, pick failure. This enabled the Marketplace seller to easily see issues as they arise and therefore reconcile stock with ease and reimbursements. Takealot no longer supply Marketplace sellers of the status. Both of this was replaced by a status of cancelled by Takealot which has a broad definition and it gives reasons other than just pick failures and cannot even be completely defined by Takealot's own support staff.

Takealot possess the information to accurately inform  
20 Marketplace sellers of the reasons for cancelled orders. However, they have chosen not to be transparent and disclose this information with sellers. We would like to hear from Takealot as to what the reasons were behind this challenge, since it was previously implemented and then later removed.

Recons are often very complex as a result. As Takealot requires

data from the Marketplace seller that is already available to Takealot but hard for Marketplace sellers to obtain before a recon process is even started. By complicating the recon process and opting for broadly defined instead of a simplified order cancellation status.

Takealot has in effect limited the possibility for a Marketplace seller to claim compensation for loss stock where the liability falls on Takealot. Takealot's failure to provide evidence that PO's were short delivered. So when stuff needs to be delivered to a Takealot DC, a purchase order is created with the combination of the products on this  
10 purchase order.

This can include stock from orders or replenishment stock. Marketplace sellers then need to label these products on this PO with a unique bar code, generated by Takealot and pack these products into a shipment. Once this is complete, the PO needs to be delivered to either Takealot Johannesburg or the Cape Town DC.

This is depending on the web stock required. Delivery can be done in person through a third party or a preferred courier. Once received at the DC, Takealot will then scan in the products delivered on this PO. Just a quick comparison because this is very important.  
20 Comparison between deliveries from Marketplace sellers compared to the limits from Takealot suppliers.

So sellers, when sellers deliver stock to the DC and the delivery process is so that Takealot suppliers actually deliver at the exact same door as Marketplace sellers. So strange for us, while this is the case, but when sellers deliver stock to a DC, this is loaded onto a pallet.



This is pulled into a warehouse and scanned at a later stage. Sellers cannot dispute or disprove any change of partially received PO's while at the warehouse. In contrast, Takealot suppliers had the opportunity to wait for all the delivered products to be counted and confirmed before leaving the warehouse, limiting the potential of claimed partially received PO's.

It is often the case that Takealot will then claim that PO's from the Marketplace seller is partially received. Exception on Takealot's graph is then created on the portal, seller portal and a seller portal has  
10 the opportunity to dispute this status. Unfortunately with multiple pieces of evidence submitted to Takealot proving that PO's are not partial, Takealot will still claim these PO's are partially received.

On request of any form of evidence from Takealot to confirm the claims of short delivery, none will be provided. It is followed up by an email from Takealot stating the PO's remain partially received. It causes huge losses for us, as we send products to Takealot, only for Takealot to then claim the said products were never delivered.

Particular interesting is it discontinues to occur even when we do not make use of a preferred courier or third party, but choose to deliver  
20 the PO's ourselves. Thus eliminating the possibility that partially received PO's can be due to theft by any third party. So here we actually requested or disputed a partially received PO and we requested proof.

This agent told us we must contact the DC manager in order to view CCTV footage. We did just that and here we were blocked by

Takealot stating unfortunately they cannot allow us to view the CCTV footage, this is only released with a subpoena. Moving on to unfair terms and conditions, prosperity.

We feel that the prosperity section of the Takealot service and conditions is unfair and this does not encourage competition in the market. Takealot's success fees for selling on the platform range from 5 to 15%, exclusive of VAT plus a performer fee between 15 and R325-00 per product.

10 These fees need to be factored in to the price of products we sell. The price parity would have the Marketplace seller sell at the same price or cheaper on the Takealot platform at all times. This would mean that traffic is driven away from the Marketplace seller's own website, as the prices on the said website would be far higher.

It also opens up a gateway to abuse of power, as Takealot can at any time increase their fees and this would in turn force the seller to increase not only its prices on the Takealot platform, but on its own website as well. Unfair service level agreements. Takealot's approach these service level agreements.

20 If properly enforced, service level agreements should enhance the overall customer experience on the Takealot platform. Certain service level agreements are higher, set up in such a manner that the internal operations at Takealot that a Marketplace seller has no control over or any input, can lead to an automatic breach in one or more service level agreements.

This in fact is a gateway to unfair treatment of Marketplace

sellers and enables bully tactics. The strict enforcement of punishment for breaches of service level agreements, have a potential to and often does lead to huge losses for Marketplace sellers. As part of the punishment either restricts you from selling products on lead time or restricts you from sending stock to Takealot DC's.

This is particularly concerning when the breach is not caused by the Marketplace seller itself. The seller has the opportunity to dispute breaches, but the turnaround time for a response from a Takealot seller complies to be on average two to four weeks. In this time frame the  
10 damage has already been done.

Moving on to order cancellation fees and data manipulation. Takealot charges an order cancellation penalty of R57-50 that is including VAT per item for any orders cancelled by marketplace sellers. if enforced properly this should disincentivize a Marketplace seller from cancelling orders and thereby increase the overall customer satisfaction level on the platform.

The problem with this fee however is that Takealot has taken an unethical approach in charging this fee to Marketplace sellers. Marketplace sellers are often charged a fee when Takealot cancels and  
20 order, and not the Marketplace seller. An order status will often go from cancelled by Takealot and then within a day or a few hours to cancelled by seller, without the seller ever having cancelled the order.

Indicating data manipulation is at play. Further our previous slides this will also lead to an automatic breach of Takealot service level agreements. We feel it is unethical and unfair to charge a penalty to a

Marketplace seller where Takealot and not the Marketplace seller cancels an order. High in drop ship order fees.

Takealot does employ a drop ship order model with many of the sellers on the platform. We drop ship orders occur and marketplace sellers has not sent stock to the Takealot DC's but instead picks, packs and prepares these orders on site. Takealot charges three different fees for drop ship orders, compared to two for non-drop ship orders.

This includes success fees, fulfilment fees and courier collection fees. Where the seller is required to order and pay for Takealot branded  
10 packaging for use with these orders. A fee that is of particular concern to us, is the courier collection fee. This fee is not charged at per box level as would be the case with any other courier provider.

Rather this fee is charged at a per item level. So multiple items in one box can lead to extremely high and unjustified fees. We are happy to prove just one such case. So this is actually the smallest box Takealot provides. Dimensions of 25 centimetres by 20 centimetres by 8 centimetres.

In this particular order we had four items on this order and if you look at the fee, it is R166-00 courier collection fee for this order. Which  
20 we believe is unjustified. Given that the box is this size. Inadequate support and dispute channels. We feel that Takealot is not doing enough to enable sellers to contact support or dispute unfair treatment as it occurs.

Tickets are left unattended for as long as a year. Often seller support staff will close support tickets as solved without ever responding

to the ticket. Other responses can consist of generic copy paste emails with links to help sections or webinars on the Takealot website. Often with no connection to the dispute.

Tickets are closed as solved once these responses are sent to sellers. The agent attending the Takealot seller support contact line usually have no power to and cannot assist the seller in any way. The response received from these agents are usually the same and I have escalated the matter.

10 We feel that Takealot should do more to disincentivize a premature closure of support tickets where no support was provided and trained support staff to be able to actively assist sellers. Marketplace sellers wish to have a dedicated account manager to assist with any issues that the seller had, that these seller support channels were unable to rectify.

This is no longer the case. Instead Sellers are to create tickets and multiple follow up tickets and then just hope your ticket might get a response. That is not a guarantee. Here we have one ticket that was opened a year ago and as we requested feedback on it, here this agent says they are still actively investigating the matter.

20 So closing remarks. The Takealot Marketplace has the potential to be a powerful enabling tool for small businesses and entrepreneurs. However, poor management decisions have led to the Marketplace severely disabling the potential for growth in the market. We certainly wish to see the platform succeed and continue to grow.

However, we do feel that this growth should not be sprung from

the unethical conduct code of ethics. This is something Naspers mentioned in their presentation before this panel. Losses cannot be sustained indefinitely. It is perhaps the case in our belief, that Naspers has put pressure on Takealot to solve their current unprofitability issue.

But we do hope Takealot will be able to comment on this. Quoting from an article published by Business Insider on 21 June 2021. On Takealot third party sales conducted by the seller, its platform grew faster than its own direct sales, Naspers of its private reseller and you have to pay for it.

10           So you can see here Marketplace sellers are a big and fundamental part of the Takealot business market. We do feel that the race to transform Takealot into a profitable company should not come at the expense of small businesses. Naspers state that further regulation is not necessary and quotes existing enforcement tools are sufficient.

We would argue otherwise. Further regulation is necessary as we are currently very limited tools and avenues available to small businesses when disputes arise. See the Consumer Protection Act does not apply to most small businesses, and the business to business transactions with Takealot.

20           Litigation fees are high and most small businesses cannot afford costly and long legal battles. Further, Takealot has in its power the ability to completely cut off a company's revenue stream at the click of a button, without warning or reason. Takealot is aware of this and it is perhaps the reason they do not have much fear in implementing the tactics we have mentioned in this presentation.

The regulation that enables a fair market will not hinder investments. On the contrary we feel that the regulation can potentially increase investment opportunities. We wish to see the regulation and solutions that will be equally beneficial to both Takealot and Marketplace sellers.

A regulation that will enable a fair and transparent partnership between Marketplaces and Marketplace sellers, and enable as well as encourage growth in the already struggling E-Commerce set. Further we ask that Takealot engage more with its Marketplace sellers to  
10 understand the issues that are present on the platform and address these.

Thank you very much.

CHAIRPERSON: Thank you Mr Keth and I think you can stop sharing your presentation.

MR KETH: [indistinct – 00:22:55]. There we go.

CHAIRPERSON: Great. Thank you very much. I am going to hand over to my fellow panel member, Ms Doris Tshepe to start with questions from the panel.

MR KETH: Okay.

20 MS TSHEPE: Thank you Mr Keth and welcome. I hope I am pronouncing your surname correctly.

MR KETH: That is correct. You are actually one of the few people that pronounce my surname correct.

MS TSHEPE: Thank you. I am going to start with some questions and I am sure my fellow panel members and some members of the technical

team will come in. But we are very grateful for the time you have given the panel to just give us some insight in your journey as a market seller on some of the platforms.

But before going into the details of your, of some of the issues you have raised, specifically I just wanted us to go back into just when you started investment into your business. Presumably when you start it is not just you go and you list on a platform and magic happens. There are sales that come on.

10 There must be some investment that you do either in product choices, various brands that you would want to use. Could you just take us... take the panel through that journey. Where you start, what are those investments and why do you make them. Just so we can understand that bit.

Thank you.

MR KETH: So as a small business it is quite hard to receive or to attain investment. We actually started with our own capital and we employed that capital ourselves. Most investment turns out banks would need to have like a record of previous sales or order and predicted future sales. Before they will provide you with any funding.

20 So on the other hand, we do have your suppliers which would then generally provide you with the terms and this would be 30 day terms, in which this time frame you would be able to then purchase stock to a limit from the suppliers and then within 30 days pay back the suppliers through the stock you purchased within that previous 30 days.

Other than that you do have smaller lending facilities that would



be more lenient to provide you with funding, but again that comes with higher costs. I believe that should answer your questions. I do not know if there is anything else I could add to that.

MS TSHEPE: Yes. Thank you. I guess the answer relates more to capital investment. I also would like you to speak a bit more to you would have to have product selection to identify various suppliers, to have your own infrastructure and stuff. If you could just talk broadly to those kind of choices, including the risk that you would acquire in making those choices and investment.

10 MR KETH: Well, certainly. So in selecting suppliers, you generally look at your big brands and the brands that customers are familiar with and you would generally then find the suppliers that are linked to these brands. So this does take some investigation and does take some time for you to actually find the suppliers. But then once you do find these suppliers, you obviously have to build a relationship with these suppliers and then actually show them that your interest in their products are genuine and you wish to precede future growth with this supplier.

20 So it does take some time and effort for us to obtain suppliers, and secondly in terms of product acquisition you know, you are sometimes required to purchase products in bulk and keep it in our warehouses per se, and reason for this is you do often have times where suppliers would give you preferential pricing for products that you have purchased in bulk as compared to price on one item at a time for instance.

MS TSHEPE: Obviously without disclosing any confidential information

from your business, when you say you have to build this relationship with suppliers, what kind of activities do you have to do in order to do so?

MR KETH: Well, firstly you have to show the supplier that you have an interest in purchasing their brands. And then secondly you have an interest in advertising [indistinct – 00:28:33] to the general public. I think your mic is muted there.

MS TSHEPE: Oh yes, now it is muted. Sorry. I just wanted to, I mean the reason I am asking this question is more to just understand the kind  
10 of risks that you as the Marketplace seller would take in the process of... during the process of going online to list on a Marketplace. I mean you have already spoken about a capital and terms with suppliers.

What, and obviously purchasing of bulk products and putting them in the warehouse. What other risks do you face in the process?

MR KETH: I could talk about certainly in terms of Takealot for instance, we would purchase a significant amount of products to then sell on that platform and then this platform subsequently blocking you from selling that specific product on the platform. Thereby you now have to sell on different platforms that might not have such big interest on said  
20 products.

MS TSHEPE: Thank you. You have just spoken about Takealot, but just broadly on platforms. I mean, most platforms when they speak to the panel or just generally, they talk about how they provide a space for sellers like you, particularly small business for space to be able to meet a much broader audience and so in fact you grow your business.

You spoke about that in your presentation. To what extent do you think Marketplace sellers actually also participate in the success of a platform or a Marketplace platform?

MR KETH: Thank you. I think there is a big role that Marketplace sellers actually play. If you look at what I mentioned in my presentation, when Naspers stated that Marketplace sellers sells [indistinct – 00:31:08] Takealot's own direct sales, you would see that this is in fact a very big part of Marketplaces.

So we believe especially if a Marketplace seller provides you  
10 with the stock you are able to sell on that Marketplace, your requirements for capital and funding are then far less as a Marketplace then you would benefit from having more stock available to your sellers but at a lower cost, as these costs are then taken up by Marketplace sellers and not the Marketplace itself.

MS TSHEPE: Thank you. I am about to move to the next area. I just wanted to know if any of the panel members wanted to ask any question. So Mr Keth, can I ask you. I mean, just on your presentation there are so many complaints you raise, particularly relating to Takealot.

I just wanted to find out from you why do you not stop using  
20 them?

MR KETH: That is a very good question and honestly one that is sometimes asked to a lot of Marketplace sellers. So Takealot is very dominant in the E-Commerce platform. So you have a sense of, they cannot say they are forcing you to sell on their platform, but it is a sense of you are either selling on this platform or you are not selling on the

platform.

Reason for this is advertising avenues are very expensive. For instance advertising your business on Google is very costly and Takealot does often nominate there and then third party advertising platforms, for instance price check, Takealot dominates there. So a lot of the traffic that would go to websites, small websites would often be re-directed to Takealot as a result of this.

MS TSHEPE: So essentially just so I understand you, is if you could you would, but in order to succeed in the market you need to be on  
10 Takealot. Am I understanding... I do not want to force... is that... that is what I understood your response and I just want to be sure I am correct.

MR KETH: In essence yes. So you have different platforms like for instance Bid or Buy that was on previously, do sell on that platform as well but the consumer base on that platform compared to Takealot, is much much smaller. So in essence yes, you have to either sell on this platform or then make very little sales with high fees in relation to your advertising, etcetera.

MS TSHEPE: So I just wanted to on... there are some of the clauses that you complain about in relation to your... to Takealot in particular.  
20 Before I come to those clauses in relation to Takealot, say for example price parity. I will use that one or gating even, or both of them. Do you get these clauses in relation to the other platforms that where you list on? Did their terms and condition include price parity or brand gating for example?

MR KETH: Not that we are aware of. I have not seen any other

platform that has a price parity clause. I could be wrong there, but not that I am aware of, and brand gating is definitely no. No other platforms implement brand gating.

MS TSHEPE: I want to ask the same question in relation to service level agreements. Do you know if either Loot or Bid or Buy have the sort of strict service level terms that you are complaining about?

MR KETH: So for instance Loot yes, they do have service level agreements in place, but I would just like to highlight not disputing the service level agreement in itself, but the way the service level  
10 agreements are implemented and how Takealot's internal operations can actually cause you to be in breach of the service level agreement, without you ever having to actually breach that service level agreement.

MS TSHEPE: Thank you so much for the clarification. That is how I have always understood you. It is... they are there, it is just how some in respect of some of the complaints you have, it is just how they are implemented.

MR KETH: Correct.

MS TSHEPE: Just going on to that issue. Has the implementation of these service level terms always been implemented in a way that you  
20 say is unfair?

MR KETH: I would not say so and actually the majority of the issues that we face currently, spring from the last two years or so. That is why we are actually putting in our presentation that we feel that there might be a severe pressure on Takealot from perhaps Naspers to make a few changes to the internal operation.

So it has not been like this forever. It is maybe the last two years or so.

MS TSHEPE: And do you attribute that to this pressure that you have just spoken about?

MR KETH: Excuse me?

MS TSHEPE: Are you attributing the change to the difficulty with implementation of service level to the pressure for profitability? Is that ...[intervenes]

MR KETH: I would say yes. I would say yes.

10 MS TSHEPE: Is there any other reason in your mind you think that would be?

MR KETH: So I do believe there is a certain Marketplace sellers that actively compete against Takealot retail section directly. So these service level agreements might be an avenue for Takealot to actually block those sellers from actively selling on the platform.

MS TSHEPE: I raise this question Mr Keth, because I just think just to for the benefit of Takealot, they always say they are customer centric and these, some of the service levels that they have, or the conditions they have is so that they can provide a good service to the customer.  
20 What is your view on that? In view of what you have already mentioned.

MR KETH: So I feel that is absolutely correct and as I have stated we are not really disputing any of the terms except then for price parity. Most of the terms and conditions as well as the service level agreements we are happy with but the way it is implemented is not fair. So terms and conditions and the service level agreements are there and

are in place to actually enhance the customer's experience.

We have no problem with that, and I do encourage Takealot to have that... those service level agreements in place but the way it is being forced, unfortunately is unfair towards Marketplace sellers.

MS TSHEPE: Just linked to the implementation of the service levels or the terms and conditions. I just wanted to find out from you. Do you think that Takealot has enough resources to be able to deal with some of the issues? I will give you an example of dispute resolution. Mechanisms that you have complained about.

10 Do you think there is enough resources on Takealot's side to be able to deal with that for example?

MR KETH: I would say no, they do not have enough resources available or enough staff to actually assist Marketplace sellers. This is mainly I would believe attributed to their exponential growth and them seeking to actually get more sellers on the platform than to focus on solving or resolving issues on the platform itself.

MS TSHEPE: Thank you. Let me just go now dealing with some of these terms. Obviously given the time we have, we are not going to be able to deal with all the issues you have. In any event, some of them  
20 the panel or the Commission may not even have the... they may not be part of the mandate of the Commission.

But I just wanted to discuss a few of the ones that you have raised and I am going to start with the one that I have ended on and that is the dispute resolution mechanism. I just wanted to find out from you, from your perspective. Do you think there should be some obligation on

Takealot with regard to a dispute resolution mechanism as to how soon a dispute must be resolved and how they should be resolved.

Do you think there should be any process of that nature contractually?

MR KETH: I will say definitely. You know, if you look at the dispute process you cannot have a company sitting on a dispute or a ticket for over a year and the Marketplace seller waiting for a response on that dispute to [indistinct – 00:42:00]. So I believe there should be some form of obligation to Takealot to actually resolve disputes as they arise  
10 and [indistinct – 00:42:11].

I would not say very quickly but at least not a year. It definitely does not take a company a year to resolve a ticket and that should not be the case.

MS TSHEPE: So would... so if you had a proposal in your mind, how I mean obviously there would be different disputes that you would have and we are also trying, I mean you have mentioned in your presentation about regulation is necessary. So in our mind we are trying to think of ways and what those mechanisms could be.

I am asking you these questions in order to get to that. So just  
20 with regard to dispute resolution do you have sort of time frames and what would be factored into in doing so?

MR KETH: I would say a month, maybe two months max would be sufficient for any company to resolve a dispute. I do not think they need much longer than that to actually look at resolving these disputes and obviously stated that there are certain or different disputes that would



take longer than others, but I believe we cannot have a case where we are waiting one year for any dispute to be resolved.

MS TSHEPE: Thank you Mr Keth. I just wanted to... I am going to come back to some of the remedies that I am thinking about. I am just mindful of time and I just wanted us to speak on brand gating, and just to understand your view. Do you think brand gating, just the term do you think that is fair including as I understand on Takealot, terms and condition that they decide on this... on their sole discretion.

Do you think those terms are fair, just the terms on brand gating  
10 generally and that they can determine on their sole discretion whether that in your mind would be fair?

MR KETH: I do not. I do not believe it is fair because in essence you are then giving Takealot the power to determine pricing on the platform without any competition from any other market seller. So that could lead to higher prices and then ultimately unfair practices.

MS TSHEPE: So currently if you look at the terms, do you think... so in your mind, just the terms and brand gating, you think that is unfair. We should not even be having that term. I understood in your presentation that you with regard to reference to Amazon, that you were almost  
20 saying from the term as defined in the Amazon terms and condition that would be acceptable.

Did I get you wrong or ...[intervenes]

MR KETH: I would not say that it would be acceptable. This is just a comparison. Obviously Amazon is not active in South Africa. So I would not be able to comment on that. It is just a comparison between

what Amazon is doing in comparison to for instance Takealot.

MS TSHEPE: Okay, thank you about that. Just to understand. So in your mind currently in your experience, does Takealot even when implementing brand gating in relation to your experience, do they do that even within the terms of their contracts or is it beyond that in the implementation?

MR KETH: I certainly have not seen a clause in their terms and conditions stating anything about brand gating, but I might be wrong. I need to just reconfirm.

10 MS TSHEPE: Ja.

MR KETH: But I do not think it is part of their terms and conditions.

MS TSHEPE: Okay, thank you. Just so I can confirm. Earlier you said that other platforms that you engage with, do not engage in brand gating.

MR KETH: That is correct.

MS TSHEPE: That is correct. That is your understanding, okay. Thank you about that.

MR KETH: Okay.

20 MS TSHEPE: Can we just get to the concept of price parity. I mean you in your presentation you touched on that. I am not going to get you to respond but what I wanted to engage you on, is a Takealot would say the fees that you say you want to factor into your price, those are the fees for services they provide to you as a market seller on their platform, either for warehousing, for delivery.

That if they were not providing you would incur those anyway.

So why would you complain about that?

MR KETH: The fees definitely need to be factored you know, because our margins especially in the tech industry is extremely low. If you do not factor in those fees, then you add a cost [indistinct – 00:48:14] added.

MS TSHEPE: Sorry, I did not get the last part. If you could just repeat?

MR KETH: So I would say these fees definitely need to be factored in as for instance in the tech industry margins are extremely low on products. So these fees definitely need to be factored into your pricing,  
10 otherwise if you do not factor in these fees, you would not be able to compete in the market.

MS TSHEPE: Thank you. The main reason platform use for having a price parity clause is generally to avoid free riding. In that there is a lot of costs that a platform incurs in order to acquire the customer and markets and be first in mind. What is your response to that, given that you are opposed to a price parity clause?

MR KETH: I think if you bulk a strong [indistinct – 00:49:24] brand, then customers would go to you regardless, if there is another website or store that is selling the same product. It might even be the same market  
20 based seller. We do often get customers that contact us directly and ask us please list your product on Takealot so we can purchase it from there.

So I do not believe that there is a possibility to actually obtain and maintain customers in such a sense.

MS TSHEPE: So in your experience there is not a lot of free riding

happening from market seller. In fact you are saying it is the opposite. People want to go to Takealot and so they ask you to list there. Am I understanding you correctly?

MR KETH: Well, I certainly cannot speak for other sellers. There might be differences here, but simply from our perspective we do get a lot of customers actually asking us to list products on Takealot so they can purchase directly.

MS TSHEPE: Thank you Mr Keth. Just... I just wanted to you know, we were I do not know if you heard the conversation Mr Hodge just had with  
10 the team from Adeo and in relation to an interesting clause they have on their terms and condition and it seems to be stemming from French legislation that requires that sellers should almost warrant their independence in that in order to avoid the dependency on the Marketplace.

What... are you aware of such terms and do you think they would be useful to have?

MR KETH: So we do not sell on the [indistinct – 00:51:33] Marketplace.

MS TSHEPE: Yes.

MR KETH: But in regards to that clause in the terms and conditions, I  
20 do believe that that could be something that is of particular interest, but if you look at for instance Takealot, they are very dominant in the E-Commerce sector. So there is not really much competition for them. So you cannot say the Marketplace seller should not be dependent on a dominant player in the market.

MS TSHEPE: Thank you. James, okay. Thank you. Just so I can go to

the implementation of the service level agreement with you. As I understand your concern it is more that because some of them you are... they are out of your control, you are likely to be in breach. I just wanted you to just share with us which those are and why you think that would be why they are unfair in that regard.

MR KETH: I just want to open up the link here. Apologies for the delay, I am just waiting for this link to open up.

MS TSHEPE: That is fine, thanks.

MR KETH: Okay. So firstly I would like to address the clause which is a  
10 service level agreement which is in relation to customers stating that the product is not what I ordered. So again we are not disputing the service level agreement in itself, but rather how it is implemented and enforced. So what this service level agreement would entail, is products returned for reasons, not what I ordered.

Takealot indicates a mismatch on the product display page misleading product information. So in that essence they do not want Marketplace sellers to mislead customers on the platform. Therefore this service level agreement is in place. The thresholds for breaching the service level agreement, is 0.5% per product.

20 So that is about one in every 200 products we sell. The reason this service level agreement is of particular concern is customers actually had the freedom to choose whichever reason they like when returning a product. So it could be the case and we actually have examples here.

It could be the case that a customer accidentally purchased

something they did not want or they made a mistake, or there is other reasons that a Marketplace seller is not liable for and then you would be in breach of this service level agreement.

MS TSHEPE: Just so I understand.

MR KETH: Yes.

MS TSHEPE: So in those circumstances, a customer would then return the product.

MR KETH: Yes.

MS TSHEPE: And what happens at that point?

- 10 MR KETH: Takealot is not vetted, so most of the terms are just accepted. But in order for you to understand this service level agreement, this not what I ordered definition is placed on Takealot's website when a customer needs to request a return. So this is one of the reasons you can choose for requesting a return.

But it is often the case that the description or the reason that a customer returns a product is not really linked to this status.

- MS TSHEPE: So am I correct to say the concerns, just on the example you have given, that the concerns you are raising are more about risk that is then transferred to a market seller as a result of the service level  
20 standard that Takealot applies?

MR KETH: I would not say it is the risk. I mean you would have the risk of breaching these service level agreement in the first place and that Marketplace seller needs to actively manage but unfortunately cannot manage the risk that are out of your control. So something that happened at the Takealot warehouse for example, [indistinct – 00:57:11]

be in breach of this service level agreement.

MS TSHEPE: Thank you for that. Can I ask you, so in your view how... just in relation to the sort of remedies that you think the panel should be thinking about. What kind of remedies do you think we should be introducing in order to deal with some of the issues you are raising?

MR KETH: In for service level agreements I believe Takealot should not have the ability to penalise a Marketplace seller when the Marketplace seller has no control of the breach of the said service level agreement. So we have two service level agreements that we wish Takealot to scrap  
10 completely and then one which we wish Takealot to amend to be more lenient.

So in essence that you can actually see who is the culprit actually breaching the service level agreements compared to who or the Marketplace sellers that are actually not breaching the service level agreements, but are in fact being punished for these breaches.

MS TSHEPE: And then in relation to the other terms, just not the SLA's. Do you have any remedies that ...[intervenes]

MR KETH: The price parity I will say that should be scrapped altogether.

20 MS TSHEPE: Then there was the issue on the high drop shipment fees. What is your view on that? Just before you answer that. Has that always been the case on the high drop shipment fees? Have they always charged them that way where it is per item as opposed to per box?

MR KETH: The drop ship model has been implemented quite recently

by Takealot. So yes, the higher drop ship order fees has been there since the start of the implementation of drop shipment, and we believe it should not be the case that we get charged such high fees. If you look at competing providers, the fees for sending a box... irrelevant of where you are sending it to in South Africa is much lower.

So Takealot is in essence forcing you to use their courier service and then charging you these ridiculous fees for using that service.

MS TSHEPE: Thank you so much. I am just going to ask, I think James has some questions. Ja, okay.

10 CHAIRPERSON: Thanks Mr Keth. I just wanted to... you made reference to the sort of cost to your business of these various aspects. I mean can we get a sense of how this is affecting your bottom line as a business?

MR KETH: So in terms of for instance returns, that greatly affects our bottom line, as we need to send stock that Takealot accepts from the terms back to our suppliers, and actually receive compensation in the form of a replacement or then a credit on said product. But now this stock is actually held up at Takealot's warehouses and this [indistinct – 01:01:06] extremely.

20 Since those products are basically locked and the capital linked to those products now can no longer implement somewhere else in the business.

CHAIRPERSON: And just across all of these factors that you have raised today. I mean you know, it is just a few percentage points of your net profit. How would you account for it?



MR KETH: That is quite a large percentage. We have actually made Takealot aware of this. It is about 10% of our turnover, is actually locked in return stock.

CHAIRPERSON: Alright. I think we have just got a question from Ms Leuner.

MS LEUNER: Hi Dr Keth. I just wanted to ask about the difficult role of dispute resolution that you spoke about. That it takes... it can take a long time and can be difficult to produce the documents that are required. I was wondering does that ever deter you from raising  
10 disputes on the platform?

MR KETH: It certainly does. A lot of sellers experience this. You have a sense of hopelessness. You are raising a ticket. You would like to see a resolution to a certain issue that you are facing, but Takealot does not actually assist you in finding a solution to this problem.

MS LEUNER: So does that mean that you sometimes just will not bother to raise the dispute?

CHAIRPERSON: That would sometimes be the case, yes.

MS LEUNER: Sorry, there was another question that I was wondering about because you had spoken about over the last... that it has been  
20 about two years that you have experienced lots of difficulties with customer service at Takealot. So that would probably be around the end of 2019.

I was just wondering did anything else change at that time? So has there been any other different changes from the end of 2019 to now?

MR KETH: There has definitely been a lot of changes on the Takealot platform. So the one would be then the drop shipping that was implemented. They had made a lot of changes to their portal, but there has also been changes to for instance service level agreements and the penalties for service level agreements and the strict enforcement of said service level agreements.

You would then also have certain aspects of the seller [no sound 01:04:04].

CHAIRPERSON: Mr Keth, I think we lost you for a moment. It may be  
10 our fault, but maybe if you can just repeat the last part of your answer?

MR KETH: Sorry, there has been quite a few changes on the Takealot market base platform. They have made changes to their seller portal. In the last two years quite a few changes to their seller portal in the last two years. There has been changes to their service level agreements and some of these changes have had positive impacts on Marketplace sellers, and others a negative impact.

MS LEUNER: Okay, thank you.

CHAIRPERSON: Mr Keth, sorry one last question from myself before  
20 we wrap up this session. I mean, with other Marketplaces that you have used or not used, I mean do you actively look over the terms and conditions and also fees when you do prior to engaging and do you feel you know, that if they are not to your liking you just do not list there?

I am just trying to understand you know, what is your decision making in terms of where you list and why.

MR KETH: So if we look at other Marketplace sellers, that would

genuinely be the case that you would look at these terms and conditions and then how they operate. So if we are not able to implement selling on that platform within our day to day operations, we would do that. Otherwise, if it is very difficult for us to implement this, we would rather sway away from that platform.

But yes, definitely fees would be one of the big factors that we look at and then obviously approach it.

CHAIRPERSON: And presumably how many customers you are going to get through that platform as well.

10 MR KETH: Correct yes.

CHAIRPERSON: Alright. Mr Keth, I think that is all the questions from the panel and we have run out of time. I think it is just left for me to thank you for your participation and for you know, coming forward as a seller to give us an insight from the seller's perspective which we do not always get.

So we do appreciate that and I am sure the technical team and the panel may be in contact in future. With that we are closing this session. We will resume again at two with two other sellers, Elite Shopper and Next Buy and they will be followed by Macro who can talk  
20 us through their Marketplace as well.

SESSION ENDED

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- 1. Parties sometimes unclear, therefore the "indistinct"***
- 2. Mr Keth is recorded very softly and sometimes speaks unclear, which leads to indistinct in the transcript.***



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