



Ms Noluthando Jokazi

The Chairperson of the Online Intermediation Platforms Market Inquiry

Competition Commission of South Africa

The DTI Campus, Mulayo (Block C)

77 Meintjies Street

Sunnyside, Pretoria

Per email: mdpmi@compcom.co.za

20 April 2023

COMMENTS ON THE MEDIA AND DIGITAL PLATFORMS MARKET INQUIRY DRAFT TERMS OF REFERENCE

Dear Ms Jokazi

1. We write to you on behalf of the National Association of Broadcasters (**NAB**) regarding the call for comments on the draft Terms of Reference of the Media and Digital Platforms Market Inquiry (**MDPMI**), which was published by the Competition Commission (**Commission**) on 17 March 2023.

2. The NAB was established in 1993 and is the leading representative of South Africa's broadcasting industry. Our aim is to further the interests of the regulated broadcasting industry in South Africa by contributing to its development and growth. Our current members include:
 - 2.1 the three television services and eighteen radio services of the SABC;
 - 2.2 eighteen licensed commercial radio broadcasters, including Primedia, Kagiso Media, Gagasi Heart Media Group, AME, MSG Afrika, Hot 102.7 FM, Kaya FM, Smile FM, RISE FM, YOU FM and YFM;

Postal Address: P.O.Box 412363, Craighall, 2024, South Africa

Tel: +27(11) 326 2444 | **Fax:** +27(11) 326 3086

info@nabsa.co.za | www.nab.org.za

The NAB is a voluntary industry association funded by its members





- 2.3 licensed commercial television broadcasters including e.tv, Multichoice, M-Net, StarSat;
 - 2.4 over forty community radio broadcasters, including campus, religious and geographic stations, and a community television broadcaster, Faith Terrestrial;
 - 2.5 the licensed broadcast signal distributors; and
 - 2.6 associate members, including Nemisa, MDDA, Abundant Media, United Stations, Mediamark and ACM.
3. As the voice of South Africa's broadcasting industry, the NAB's aim is to foster and promote the development of a sustainable and robust broadcasting system that upholds the principles of South Africa's constitutional democracy. The NAB also seeks to enable and maintain an environment in which broadcasters are able to thrive – by serving audiences and contributing to diversity in the country.
 4. We understand that during the Online Intermediation Platforms Market Inquiry submissions were made by the Publishers Support Services regarding the distribution of media content on digital platforms, including search, social media and news aggregation platforms. As a result of these submissions (and similar market inquiries in other jurisdictions), the Commission noted features in the digital platforms sector for the distribution of news media content that may impede, distort or restrict competition, or undermine the purposes of the Competition Act 89 of 1998, which could have a material implication for the news media sector of South Africa.
 5. Accordingly, the Commission issued the draft Terms of Reference for the MDPMI. The market inquiry will focus on news media businesses' dependency on digital platforms as an intermediary distributor for the dissemination of news content online; and the impact thereof on news media businesses in relation to news content online.
 6. The NAB has considered the draft Terms of Reference and notes that the aim of the MDPMI is to consider the nature and extent to which digital platforms affect the news media sector in South Africa, focusing only on South African businesses in the news media sector, including news publishers and broadcasters. The scope of the market



inquiry, as set out in the draft Terms of Reference, includes digital platforms, such as:

- 6.1 Search engines (e.g. Google search and Microsoft Bing);
 - 6.2 Social media sites (e.g. Meta);
 - 6.3 News aggregator sites and/or apps (e.g. Google News and Apple News);
 - 6.4 Video sharing platforms (e.g. YouTube and TikTok);
 - 6.5 Generative AI services whether integrated into the above platforms or not (e.g. ChatGPT alone or integrated with Bing); and
 - 6.6 Other platforms identified in the course of the inquiry.
7. The scope specifically excludes broadcast content such as entertainment and sports, as well as, for instance, ad platforms and ad exchanges used to surface digital advertising on South African news media websites or apps.
8. Throughout the draft Terms of Reference, the Commission refers to “*news publishers*”. The NAB notes that there is a distinction in the law between publications and broadcasts. We refer the Commission to, for instance, the definition of “publication” set out in section 1 of the Films and Publications Act 65 of 1996 (as amended), which excludes broadcast content. In light of this, it would be helpful for the Commission to provide an indication of which entities fall within the scope of “news publishers” (or otherwise) for the purposes of the market inquiry.
9. The NAB respectfully reminds the Commission that the Independent Communications Authority of South Africa (**ICASA**) has concurrent jurisdiction with the Commission in respect of licensed broadcasters, and recommends that the Commission engage with ICASA during this process to ensure that there is parity between the authorities. The NAB would also encourage the Commission to engage with the Film and Publication Board in respect of news publishers.



10. The NAB wishes to indicate its support for the Commission's MDPMI. The NAB looks forward to the release of the final Terms of Reference and engaging further with the Commission during this process.

Yours sincerely

A handwritten signature in black ink, appearing to be "Nadia Bulbulia", written over a horizontal line.

Nadia Bulbulia
Executive Director