

**ETHEKWINI MUNICIPALITY
DURBAN FRESH PRODUCE MARKET
COMPETITION COMMISSION: FRESH PRODUCE MARKET INQUIRY**

Reference is made to your request for additional information arising from the responses to the Competition Commission request for information (“RFI”) sent on the 5th of May 2023.

NOTE: Numbering below is as per Competition Commission document referenced 2022APR0051 and dated 22 June 2023

- 1-6. Commission’s introductory remarks/explanations.
- 7. Description of the methodology(s) used in calculating market shares.

The total turnover of market agents is first determined. Each market agent’s percentage of total turnover is reflected to be that of market share.

- 8. The nature of competition between market agents.

Efficiency is enhanced by the trading time, i.e., from the opening to closing of the market. Durban Market opens the same time for all market users/buyers. The ‘commission market system’ is based on the principle of supply and demand. Supply and demand is further influenced by the quality, quantity, and price of produce. Delivery does not affect the market, as this function is performed by buyers directly after purchasing produce on the market (buyers facilitate their own deliveries). Time has no impact, as the market has fixed trading times. Due to demand, prices may fluctuate downwards later in the day, as demand decreases over time.

- 9. The selection process and criteria for the appointment of market agents that operate at the Durban Fresh Produce Market (“DFPM”).

- 9.1 Duration of appointments including renewal periods and terms.

There is no duration.

- 9.2 The nature and terms of these appointments including exclusivity (if any); and

The nature and terms of appointments are conducted in terms of Durban Market By-Laws, the Market’s Standard Operating Procedure (SOP), and the APAC Act.

- 9.3 Considerations relating to transformation and barriers to entry faced by HDP and SMME agents and steps DFPM in addressing these issues.

Durban Market introduced an HDP/SMME fresh produce market wholesaler to trade on the market within the sales halls to address issues of transformation and to ease the barriers affecting entry that is usually experienced by a new commission market agent (new fresh produce market wholesaler to commence trade in September 2023).

10. The allocation of floor space is based on volume and turnover:

10.1 The formula applied in calculating the allocation of floor space is as follows.

<p>(i) Mass (per Market Agent/Market Wholesaler) + Turnover (per Market Agent) divide by 2 = Market Agent/Market Wholesaler average.</p> <p>(ii) Market Agent/Market Wholesaler average divide by average of all Market Agents/Market Wholesalers multiply by 100 = % market share (per Market Agent/Market Wholesaler).</p> <p>NB: to obtain the average of all the Market Agents/Market Wholesalers for the preceding four-month period, add up each Market Agents/Market Wholesalers average, and divide by four.</p> <p>(iii) Total sales floor area (per sales hall) divided by % market share (per Market Agent/Market Wholesaler per sales hall) multiply by 100 = allocated m². (per Market Agent/Market Wholesaler).</p> <p>Note: The total sales floor area available for trading purposes is as follows: -</p> <table><tr><td>Sales Hall One (old hall)</td><td>17991 m²-</td></tr><tr><td>Sales Hall Two (new hall)</td><td>10349 m²-</td></tr></table>	Sales Hall One (old hall)	17991 m²-	Sales Hall Two (new hall)	10349 m²-
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See Appendix 1 (Floor Allocation SOP)

10.2 How often this allocation is done according to the formula

Floor allocation is carried out twice a year.

10.3 How does the market deal with space allocation for new market agent applications?

Minimum 800m² is allocated in sales hall 1, and 800m² in sales hall 2.

11. An overview of how the floor space that is allocated to each agent operating on Durban Market floor has changed from the years 2017 – 2022?

See Appendix 2

12. How is floor space allocated when there is an agent that exits or enters the market.

The Market's Standard Operating Procedure in relation to sales floor space is still implemented in this case.

Wenpro Market Agent's floor space was not shared amongst the market agents, however this space was allocated based on market share at the time when floor allocation was due.

13. Does Durban Market have specific floor space formula for emerging businesses (SMMEs and HDPs)?

Floor space is allocated to an emerging business in terms of the process when allocating space to a new market agent. See 4.3 above.

14. Why was Wenpro Market Agent's contract was terminated in Nov 2018?

Wenpro Market Agent's contract was terminated by the Regulator APAC due to trust account related issues. Refer to APAC Registrar for details, Francois@apacouncil.co.za, Tel: 082 415 1640.

15. It was indicated that you provide trust account facility to protect producer's funds.

Durban Market does not provide trust account facilities. This was incorrectly reflected in the submission. Market agents provide their own trust account facility. These trust accounts are audited by the Regulator (APAC). The market provides a market (municipal) bank account wherein buyers deposit cash, which is then loaded onto the buyer's market buying account/buying card for purchases.

16. Which producers are visited and how do you select the ones visited? What discussions are had with producers?

Producers are selected randomly from different provinces (in no particular order). Market Agents also supply the market with names of producers whom they wish to have visited by the market. The market also extracts names of producers it would like to visit from its trading system. Farmers who supply the market are visited, and farmers who do not supply the market are also visited. Should the market attend a conference in a particular region, use will be made of the opportunity to visit farmers in that region. Discussions centre around how Durban Market or market agents can improve service offerings. What changes producers would like to see on the market, producers are encouraged to submit their complaints or concerns about market agents, and the market, etc?

The visits are planned and undertaken by Durban Fresh Produce Market to enhance relationships. The main objective is to improve communication, improve customer service, build industry confidence, and encourage innovation especially from the producer's side.

The market also uses this opportunity to promote the Durban Market's brand and ensure visibility to these producers where they can be offered opportunity to address their concerns and queries arising from their business relationship with the market agents on Durban Market.

17. FPMI should consider the introduction of Fresh Produce Market Wholesalers to the NFPM which will speed up transformation on the market and increase competitiveness within the sector. In this regard:

17.1 Provide details as to how this introduction should take place.

The process to involve a public call for expressions of interests to be a market wholesaler.

17.2 Why the current model involving the wholesalers is not working.

It was not stated that the current model is not working.

17.3 How the introduction of fresh produce wholesalers will achieve the outcomes Suggested?

The system of a 'Fresh Produce Market Wholesaler' allows a market wholesaler to procure fresh produce from farmers at an agreed price. The wholesaler then becomes the owner of the produce and re-sells same on the market for his own account. No commissions are involved in relation to the producer/farmer. With the commission system a new market agents relies solely on the discretion of the producers/farmers to supply him or her produce. Existing relationships between farmers/producers and established market agents are extremely difficult for a new entrant to penetrate.

Farmers will not (are reluctant) to move away from their existing commission market agents to supply a new market commission agent. However, the attraction of a guaranteed up-front sale/price for their produce to a wholesaler is a risk averse approach for the producer/farmer, thus the producer is more likely to take-up the offer. This system also ensures that the 'fresh producer market wholesalers' have immediate access to fresh produce to deliver to his or her sales floor on the market for onward to sale to buyers.

18. National Agricultural Marketing Council (NAMC) recommendations about (i) Ownership and Management of the markets, (ii) Legal Framework, (iii) Commission system, (iv) market access and transformation and (v) infrastructure. May you kindly provide the DFPM's views regarding issues raised that gave rise to each of the recommendations above. For ease of reference, the NAMC's report is also attached for further perusal. In addition, may you kindly indicate if DFPM has ever considered implementation of these recommendations and where applicable provide a progress or status update on implementation of any of the recommendations.

- (i) **Market Management and operational staff is 100% black.**
- (ii) **The Legal Framework consists of By-Laws, Standard Operating Procedures (SOPs), and Rules & Regulations. However national markets continue to fall under the competency of the local municipality as such remains enshrined in the constitution.**
- (iii) **Commission System – APAC legislation is in the process of being reviewed.**
- (iv) **Market Access and Transformation. – Market trading hours standardised for all buyers. Produce reservation was prohibited. Secondary Trading (reselling purchased produce on the sales floor). Appointment of BEE market agents and market wholesalers.**
- (v) **Infrastructure – Conditional assessments were conducted, and implementation prioritised. Repairs and Maintenance contracts in place.**

19. "Credit buying" on the market whereby market agents extend credit to buyers in the market.

The Regulator (APAC) is aware of market agents credit buying facility. Brought to APAC's attention by Durban Market.

Information regard credit sales:

- 19.1 Name of buyers to whom credit is extended, value of credit (in rands), name of the market agent extending credit, volume of sales and average price of produce. Provide this information for each produce identified by the Fresh Produce Market Inquiry for the period 2017 – 2022.

See Appendix 3

20. Is DFPM aware of market agents extending credit to sellers (the farmers/producers)?

Not aware. Market Agents interacts directly with producer/farmers.

20.1 Provide name of farmers/producer to whom credit is granted, names of market agents Providing credit, value of credit (in rands), volumes of produce provided by the farmer/producer to the market agent/s concerned, average price of produce.

Not applicable

21. Is DFPM aware of Market Agents practicing what is referred to as “reserve buying” where certain produce from certain producers is reserved for certain buyers at a specific price? If so, may you kindly provide the following information regarding reserve buying:

This practise is not permitted unless a specific motivated request is received and approved (non to-date).

21.1 Name of buyer/s farmers/producer to whom reserve buying is extended credit is granted.

Not Applicable

22. Provide the following information about the produce that has been destroyed at the DFPM for the period 2017 – 2022

22.1 volumes of produce, the market agent who handled the produce, names of producers, and indicate the reasons why the produce was destroyed or declared unfit for human consumption, whether the producers/farmers were compensated for the loss, average price paid to farmers (if they were compensated)

See Appendix 4. Records are not maintained regarding producer/farmer compensation for losses (check with market agents).

23. Information about wholesalers operating at the DFPM

23.1 Names and contact details of wholesalers.

See Appendix 5.1

23.2 Lease agreement

See Appendix 5.2 and 5.3

24. For the financial year of 2022, provide the volumes of produce that each of the wholesalers procured from the DFPM and average prices.

See Appendix 6

25. Trades at the market that occur outside of the official market trading hours.

25.1 The volume of produce, average price, market agent involved and producer.

See Appendix 7

25.2 Records where produce is sold outside of the official trading hours.

Transactions are is recorded immediately upon conclusion of the sale by the trading system.

26. Commissions closing remark/statement where to direct queries.