



**competition commission**  
south africa

## **MEDIA AND DIGITAL PLATFORMS MARKET INQUIRY PARTICIPATION IN IN-CAMERA HEARINGS TO BE HELD 08-19 JULY 2024**

### **BACKGROUND**

The Competition Commission launched the Media and Digital Platforms Market Inquiry (the “Media and Digital Market Inquiry”, “Inquiry” or “MDPMI”) on 17 October 2023 in terms of section 43B(1)(a) of the Competition Act 89 of 1998 (as amended) (“the Act”).

The Inquiry was initiated because the Commission has reason to believe that there are market features on digital platforms that distribute news media content that impede, distort, or restrict competition, or undermine the purposes of the Act, and which have material implications for the news media sector of South Africa.

The scope of the Inquiry is set out in the Terms of Reference published on 15 September 2023. In summary, the Inquiry is looking into the distribution of news media content on search and social media platforms and how that news content generates revenue for such platforms, as a starting point, search and social media platforms primarily fund themselves through advertising and drive consumer traffic, engagement, and data collection using news media content to support that revenue stream. Online platforms influence the bargaining over the use of news content and the referral traffic to news media websites. News aggregation services curate content from various news sources to offer consumers convenience for online news consumption. Like digital media platforms, news media content publishers fund the creation of news content through advertising and depend on engagement and data collection for optimising targeted advertising, although many also incorporate subscription fee revenues to support the funding of news generation. The Inquiry is also looking into the structure of digital advertising (“ad tech”), its impact on traditional media, and the distribution of advertising revenue among platforms.

The Inquiry released the Statement of Issues (“SOI”) along with Requests for Information (“RFIs”) to various online platforms, news aggregation platforms, news media organisations, broadcasters, and community media as well as ad brokers who are players in the ad tech space. The first SOI and set of RFIs were primarily targeted at understanding some of the market dynamics and the sort of business practices occurring across these platform types operating in South Africa.

After reviewing the initial submissions, the Inquiry released a Further Statement of Issues (“FSOI”) on 19 December 2023, along with further requests for information from market participants.

The Inquiry held public hearings from 04-27 March 2024. The purpose of the public hearings was to provide a platform for direct engagement between the Inquiry panel and stakeholders. It further presented another opportunity for stakeholders to not only provide their perspective on some of the issues raised in the SOI, FSOI, and aspects of the RFIs but also to provide their views on non-confidential submissions made by other stakeholders in response to the Inquiry. Stakeholders were also provided with the opportunity to highlight any issues not currently known to the Inquiry where those concerns fell within the defined scope.

All the Inquiry documents as well as public versions of stakeholder submissions are available on the Inquiry’s website at <https://www.compcom.co.za/media-and-digital-platforms-market-inquiry/> along with the [Administrative Timetable](#) and the [Guidelines for Participation in the Inquiry](#).

Recordings of the public hearings are available on the Commission’s YouTube channel at <https://www.youtube.com/channel/UCfpSJZxdHcryCC20ipPAuCg> and transcripts of the public hearings can be accessed [here](#).

## **IN-CAMERA HEARINGS**

In the next phase, the Inquiry will hold in-camera hearings from 08-19 July 2024 to engage with stakeholders making submissions to the panel of a confidential nature, which cannot be dealt with adequately through confidential written submissions or public hearings.

The *in-camera* hearings will also allow the Panel and Technical Team to engage with stakeholders who have filed reports of an expert economic or legal nature that traverse confidential information. Participants will be permitted to first make their presentation followed by questions from the Panel and Technical Team. Presentations should focus on the confidential aspects and not traverse general points that should have been made in the public hearings.

Stakeholders need to ensure that suitably informed business and organisational representatives are present to answer questions from the Inquiry Panel and Technical Team on the main areas covered by the confidential submissions. Where expert economic or legal submissions are made, the experts need to be present to answer questions from the Panel or Technical Team.

Expert economic and legal reports need to be submitted by **17h00 on 28 June 2024** and any presentations for the *in-camera* hearings need to be submitted 48 hours before the hearing slot. Stakeholders wishing to submit expert economic or legal reports but not make oral submissions must also submit these reports by **17h00 on 21 June 2024**.

## **CALL FOR PARTICIPATION**

Stakeholders that wish to participate in the *in-camera* hearings must submit a request to participate using the "Inquiry *In-Camera* Hearing Form" on the website and send it to the Inquiry email address ([mdpmi@compcom.co.za](mailto:mdpmi@compcom.co.za)) by **17h00 on 21 June 2024**. The request must set out the nature of the submissions to be made at the hearing and a motivation as to why oral submissions are required as an alternative to confidential written submissions. The request must also set out the individuals who will be present at the hearings and their likely dates of availability to make the submissions and respond to questions from the Inquiry Panel and Technical Team. Stakeholders should also indicate the availability of their team within the dates set down for the *in-camera* hearings to facilitate scheduling.

The period for the *in-camera* hearings is limited and there may not be sufficient time to accommodate all stakeholders that have expressed interest. For this reason, the Inquiry will use its discretion as to which stakeholders will be allowed a slot to participate in the *in-camera* hearings and the length of time granted. The Inquiry is likely to give preference to those stakeholders where further panel engagement on the confidential written submissions is necessary to inform the work of the Inquiry.

The Inquiry may also use its discretion to require the participation of any stakeholder that has not requested participation, but which can materially contribute to the work of the Inquiry and did not participate in the public hearings. In each such case, the Inquiry will communicate with the participants before the hearings to permit preparation.

The Inquiry will inform stakeholders directly of their hearing date and time slot in the week of the 1<sup>st</sup> of July 2024.

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

## **GUIDELINES FOR PARTICIPATION**

The [Guidelines for Participation](#) in the Inquiry contain general instructions for participation and stakeholders are advised to review these before participation.