



Media Statement

For Immediate Release

13 August 2024

**BOOKING.COM AND COMPETITION COMMISSION REACH SETTLEMENT ON ONLINE
INTERMEDIATION PLATFORMS MARKET INQUIRY APPEAL**

The Competition Commission (Commission) and Booking.com (Pty) Ltd (“Booking.com”) have agreed on steps to be taken by the online accommodation booking platform to comply with the Commission’s findings and remedial actions as contained in the final report of the Online Intermediation Platforms Market Inquiry (“OIPMI”). These settlement terms conclude Booking.com’s ongoing review and appeal litigation challenging the OIPMI remedial actions in both the High Court of South Africa and at the Competition Tribunal.

The Commission welcomes Booking.com’s undertaking to fulfil the remedial actions as agreed, including removing the wide and narrow price parity terms from all contracts with accommodation providers in South Africa, and from any criterion for participation in Booking.com’s incentive programmes (Genius, Preferred Partner or Preferred Plus) or any other membership programmes. A wide price parity clause is a contractual clause which requires accommodation providers on Booking.com to publish or offer prices that are no higher than any other online travel intermediation platforms. A narrow price parity clause requires accommodation providers listing on Booking.com to publish or offer prices that are no higher than their own direct online booking channel i.e. own website. Removing both these clauses effectively enhances price competition between online travel agents and allows accommodation providers such as hotels and guesthouses to price lower on their own websites for online bookings. These changes will also benefit consumers by providing lower price options online and will allow accommodation providers to innovate and develop their direct sales channels.

In addition, Booking.com will put in place a substantial programme to provide funding of initiatives to identify, onboard, promote, and grow accommodation establishments, activities and experiences provided by small to medium enterprises that are owned by historically disadvantaged persons (HDPs) or HDP communities.

The Commission is pleased with the positive outcome of the extensive consultations with Booking.com and the amicable, collaborative engagements with the platform and its representatives. The Commission is hopeful that the agreed-upon terms will encourage the four other firms that have brought appeals against the OIPMI remedial actions to settle with the Commission.

BACKGROUND

On 19 May 2021, the Commission initiated the OIPMI to assess whether features in Business-2-Consumer (B2C) online platform markets adversely affected competition between platforms and between businesses using these platforms, including small to medium enterprises and HDPs in terms of section 43B(1)(a) of the Competition Act No 89 of 1998 (as amended). The B2C platforms included eCommerce, online travel agencies, food delivery, app stores, and property/automotive classifieds, along with the role of Google Search in shaping B2C platform competition. These types of platforms were selected as they affect a wide range of business activities throughout the country's economy.

On 30 July 2023, the Commission published its Final OIPMI Report, which was the culmination of almost two years of investigations into local and international B2C online platform markets. The Final Report identified features that adversely affected competition in these markets. It included a set of remedial actions that platforms, and some businesses, are required to implement to remedy the identified market features that adversely affect competition. This included outcomes stemming from the business models utilised by digital platforms, rather than necessarily deliberate efforts to stifle competition.

The remedial actions are intended to provide the following benefits to platforms, businesses, and consumers: greater visibility and opportunity for smaller South African platforms; enable more intense platform competition; level the playing field for small businesses selling through these platforms; and provide a more inclusive digital economy.

The OIPMI report can be accessed at <https://www.compcom.co.za/online-intermediation-platforms-market-inquiry-final-report-launch/>. A full set of the remedial actions can be found in Annexure 10 of the Final Report.

[ENDS]

Issued by:

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