

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 3721

28 July 2023

Competition Commission of South Africa

PUBLICATION OF THE FINAL REPORT AND DECISION OF THE ONLINE INTERMEDIATION PLATFORMS MARKET INQUIRY TO BE CONDUCTED IN TERMS OF SECTION 43B OF THE COMPETITION ACT 89 OF 1998 (AS AMENDED)

28 July 2023

Notice is hereby given that the Competition Commission (“the Commission”) has published the Final Report and Decision of the market inquiry into Online Intermediation Platforms (“the Online Intermediation Platforms Market Inquiry” or OIPMI) in terms of section 43E(1) of Chapter 4A of the Competition Act, 89 of 1998, as amended (“the Act”) on its website. The Final Report and Decision will be available from Monday 31 July 2023 at <https://www.compcom.co.za/online-intermediation-platforms-market-inquiry/>.

The Competition Commission formally initiated the Online Intermediation Platforms Market Inquiry (the “Online Platforms Market Inquiry”, “Inquiry” or “OIPMI”) on 19 May 2021 in terms of section 43B(1)(a) of the Competition Act 89 of 1998 (as amended) (“the Act”). An Inquiry was initiated because the Commission has reason to believe that there are market features of online intermediation platforms that may impede, distort or restrict competition; and in order to achieve the purposes of the Act including the participation of small and medium enterprises (“SMEs”) and historically disadvantaged persons (“HDPs”) in these markets.

The Scope of the Inquiry is set out in the Terms of Reference (“ToR”) which was published on 9 April 2021. Online intermediation platforms facilitate transactions between business users and consumers (or so-called “B2C” platforms) for the sale of goods, services and software, and the scope includes eCommerce marketplaces, online classifieds and price comparator services, software application stores and intermediated services such as accommodation, travel and food delivery.¹ The scope includes digital advertising insofar as it may pose a barrier to platform or business user competition, and the extent to which those platforms also offer intermediation services. The scope also includes foreign domiciled platforms that have an economic effect in South Africa.²

The inquiry is broadly focused on four areas of competition and public interest, namely:

- market features that may hinder competition amongst the platforms themselves;
- market features that may hinder competition amongst business users or undermine consumer choice;
- market features that give rise to exploitative treatment of business users; and
- market features that may negatively impact on the participation of SMEs and/or HDP firms.

All Inquiry documents and public submissions are available on the Inquiry website.³ Since initiation, the key Inquiry processes and proceedings to date have been as follows:

¹ The scope of the inquiry specifically excludes e-hailing services which were the subject of a previous inquiry and other pure gig economy platforms.

² See document ‘Clarification on the Inquiry Scope’, August 2021. The document also clarified that metasearch engines (MSEs) fell within the scope.

³ <http://www.compcom.co.za/online-intermediation-platforms-market-inquiry/>

- Release of the Statement of Issues (“SOI”) for public comment (19 May 2021);
- Issuing a first round of Requests for Information (RFIs) and business user survey (May 2021);
- Release of the Further Statement of Issues (FSOI”) for public comment (17 August 2021);
- Issuing of second round of RFIs and refined business user survey (August 2021);
- Public hearings and follow up RFIs (November 2021);
- Receipt of expert reports and in-camera hearings (February 2022);
- Publication of the Provisional Inquiry Report along with provisional findings and recommendations (13 July 2022);
- Submissions on the Provisional Inquiry Report (August/September 2022);
- Engagements with stakeholders and follow-up RFIs (October/November/December 2022).
- Engagements with stakeholders on final findings and remedial actions / recommendations (January to July 2023)

The Final Report includes an annexure containing the detailed Remedial Action decisions of the Inquiry in addition to the summarised versions in the main text of the report. The Final Report also includes platform category annexures which are focused on the stakeholder submissions made in respect of the Provisional Report, summarising those submissions along with the views of the Inquiry on those submissions that take a contrary view to the Provisional Report.