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Competition Commission Launches Online Market Inquiry – Key Priority Sector

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Background: Online Platforms

Today, 19 May 2021 the Competition Commission of South Africa ("**Commission**") officially commenced its market inquiry into online intermediation platforms ("**Online Market Inquiry**") in terms of section 43B of the Competition Act, No.89 of 1998.

Online intermediation platforms are digital platforms that facilitate transactions between business users and consumers (B2C) for the sale of goods, services and software, regardless of whether the transactions are concluded on the platform itself, on the online site of the business user or offline. Online intermediation platforms include ecommerce marketplaces (including Loot and OneDayOnly), online classified marketplaces (such as Property24, Private Property, My Roof, Autotrader, Cars.co.za and Carmag.co.za), software application stores (including the Google Play Store and Apple's app store) and intermediated services such as accommodation, travel, transport and food delivery (which include UberEats, Mr D Food and Bolt Foods)[1].

It should be noted that e-hailing services, search and social media, and Fintech platforms will not be the focus of the Online Market Inquiry for various reasons.

Amongst other things, the Commission published the administrative timetable for the Online Market Inquiry, its Statement of Issues and a link to the online survey for business users. In essence, the Online Market Inquiry will focus broadly on the following key issues to competition and public interest:

1.1 market features that may hinder competition amongst online markets themselves;
1.2 market features that may give rise to discriminatory or exploitative treatment of business users; and
1.3 market features that may negatively impact on the participation of SMEs and historically disadvantaged person (HDP) owned businesses.

Media launch: Commissioner's remarks

At the media launch of the Online Market Inquiry, the Commissioner of the Commission remarked that the launch of the Online Market Inquiry takes place at a time when online markets are becoming increasingly important as one of the drivers of economic growth in South Africa. The Commissioner also confirmed that the digital sector is one of the Commission's key priorities.

Furthermore, the Commissioner welcomed Minister Patel's announcement yesterday that government will be shortly publishing a policy statement on competition policy, in which digital markets will feature prominently.

Information Gathering Process

The methods which the Online Market Inquiry will use to gather information for its investigation include, issuing questionnaires to online platforms, receiving submissions from members of the public, trade unions and industry bodies, holding virtual public hearings, conducting site visits and directing targeted information requests to specific stakeholders.

Conclusion

The Online Market Inquiry marks the Commission’s first market inquiry foray into the digital economy and is likely to identify issues that may be relevant to subsequent market inquiries into different aspects of the digital economy.

If you intend making written submissions to the Online Market Inquiry, or you are obliged to provide information and documentation to the Online Market Inquiry, be sure to claim all relevant “confidential information” (as defined in the Competition Act, 1998) as such in your submissions and in accordance with the prescribed procedures.

The closing date for submissions on the issues outlined in the Commission’s Statement of Issues is 18 June 2021. This is the same closing date for the online survey for business users and the Commission’s requests for information to specific market participants.

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[1] See the references to these digital platforms in the Commission’s Statement of Issues released on 19 May 2021.

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