



COMPETITION

Franchisors Beware! The Competition Commission may come knocking soon

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The franchising industry has long been a bone of contention at antitrust authorities worldwide. Franchisees often complain to competition regulators about their treatment by franchisors. However, in South Africa no such complaints have as yet resulted in finalised enforcement activity by the Competition Commission. This may soon change. On 26 June 2026, the Commission published draft Terms of Reference ("**ToR**"), signalling its intention to launch a market inquiry into the franchise sector in South Africa ("**Market Inquiry**").

Reasons for the market inquiry

The Market Inquiry stems from the Commission's belief that there are market features that may impede, distort or restrict competition in the South African franchise business market. In addition, the Commission has observed a rising number of mergers and acquisitions in well-established franchise sectors which, it says, gave rise to concentration in those sectors. This bulletin analyses the rationale driving the Commission's latest regulatory intervention and outlines what this could potentially mean for franchisors and franchisees operating in South Africa.

The Competition Act 89 of 1998 empowers the Commission to conduct a market inquiry if it believes that certain features or a combination of features in a market for any goods or services impede, distort or restrict competition within that market. The Commission may also initiate a market inquiry to fulfil the objectives of the Competition Act. The ToR intimates that the Market Inquiry is anchored in the public interest objectives of the Act, which mandate:

- ensuring that small and medium-sized enterprises ("**SMEs**") have a fair chance to participate in the economy; and
- promoting a greater spread of ownership, especially by increasing the ownership levels of historically disadvantaged persons ("**HDP**") in firms in the market.^[1]

Consequently, the purpose of the Market Inquiry is to assess whether current franchising models act as a barrier to entry, growth, or expansion for SMEs and HDPs in the South African economy.

Features in the franchise sector believed to be impeding, distorting or restricting competition

In the ToR the Commission highlights several systemic features within the franchise market that it believes may stifle competition. These include the following:

- Participation in the franchising sector is not yet proportional or reflective of the broader demographic South African landscape, limiting the overall impact on economic inclusivity and transformation. The Commission noted that the franchise sector still reflects skewed racialised patterns of ownership.
- Power balances between franchisors and franchisees. In particular, the Commission has received numerous complaints that franchisees are subjected to restrictive and potentially exploitative practices by franchisors, who exert control over their operations and supply chains.
- Franchisees lack bargaining power during the negotiation of franchise agreements.
- Limitations caused by franchise funding requirements imposed by franchisors or credit financiers. This can be through the requirement of upfront significant capital contributions.
- Franchisors imposing unfair trading terms and conditions on franchisees.
- Exploitation of information asymmetries between franchisors and franchisees.

Accordingly, the Market Inquiry will examine whether and to what extent the abovementioned features exist and, if so, whether they have an adverse effect on competition in the market. Of relevance, franchisors and franchisees should expect probing by the Commission into the above features and may be required to respond to one or more written information requests. They may also be called upon to make oral presentations regarding their businesses at various public and private hearings.

Scope of the Market Inquiry

The Market Inquiry's focus is expected to be on three broad themes, including (a) finance, funding and terms and conditions of franchise operations; (b) franchise agreements' terms and conditions and practices; and (c) exploitation of information asymmetries.

The Commission further indicates in the ToR that it may focus the Market Inquiry on sectors that appear to have greater potential to influence market dynamics, and has identified the following categories or areas of interest:

Fast Food: This refers to fast food restaurants chains. Examples include Chicken Licken, KFC, Kauai, McDonalds South Africa, Barcelos Flamed Chicken, Roman's Pizza, Pizza Perfect.

Construction: This refers to construction and hardware stores. Examples include Italtile Retail, CTM, Talisman Hire, Mica Investments.

Automotive: This refers to automotive stores offering parts and car services such as brake pad replacement, wheel bearing repairs and wheel changes. Examples include Midas, Hi-Q Automotive, HJ Bosch & Sons Panel Beaters, PG Glass, Battery Clinic and Super Quick.

Grocery: This refers to grocery stores. Examples include Pick n Pay, Spar, Food Lovers Market, Shoprite Holdings (via OK Franchise division).

Fuel Stations: This refers to the grocery and fast-food stores located within fuel stations. Examples include convenience stores and quick-service restaurants at Engen, Astron, Shell and BP forecourts.

Health and Beauty: This refers to health and beauty stores. Examples include Legends Barbershop, Revive Herbal Health and Sorbet.

Timelines

The public is invited to submit comments on the draft ToR by 7 August 2026. The Commission is also expected to publish a final ToR. Within 20 days after the publication of the final ToR, the Commission is expected to commence with the Market Inquiry, with a deadline for completion being within 18 months thereafter. However, this timing is probably ambitious, given the broad scope of the Market Inquiry, touching as it does on a multitude of business activities and market players.

Conclusion

The launch of the Market Inquiry may herald a seismic shift for the South African franchising landscape. Historically, market inquiries have resulted in binding, highly disruptive remedial actions, including forced changes to long-standing corporate business models.

It can be expected that many franchisees, particularly SMEs and HDPs, will make use of this public platform to make their grievances heard regarding pricing, one-sided contract terms and funding difficulties.

For certain franchisors, their standard operating models may come under threat. We expect that strict supply chain exclusivity clauses, mandatory procurement systems and rebate structures will be subjected to intense scrutiny. It would be advisable for franchisors to proactively audit their existing franchise agreements and operational policies at this early stage, to ensure that their houses are in order when the Commission comes knocking.

[1] A historically disadvantaged person for the purposes of the Competition Act is defined as: (a) one of a category of individuals who, before the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), came into operation, were disadvantaged by unfair discrimination on the basis of race; (b) an association, a majority of whose members are individuals referred to in paragraph (a); (c) a juristic person other than an association, and individuals referred to in paragraph (a) own and control a majority of its issued share capital or members' interest and are able to control a majority of its votes; or (d) a juristic person or association, and persons referred to in paragraph (a), (b) or (c) own and control a majority of its issued share capital or members' interest and are able to control a majority of its votes.



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