THE COMPETITION COMMISSION PUBLISHES THE FURTHER STATEMENT OF ISSUES

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On 17 May 2021, the Competition Commission officially launched the Online Intermediation Platforms Market Inquiry ("**Inquiry**"). The Inquiry was initiated in terms of section 43 B (1) (a) of the Competition Act 89 of 1998 (as amended). The purpose of the Inquiry is to act as a proactive measure for the Competition Commission to get a deeper understanding of the online markets

operating in South Africa. The Inquiry is driven by the global experience that a few platforms may start to dominate online commerce given the features of online markets and in some cases the conduct of the markets themselves.

On 19 August 2021, the Competition Commission issued an invitation to digital markets participants to make submissions on the Further Statement of Issues ("**FSOI**") released on 17 August 2021. The FSOI highlights areas for more focused investigations in five online platform categories including eCommerce, delivery platforms, travel and accommodation, online classified and app stores.

The scope of the Inquiry is focused on business-to-consumer online platforms. It looks at features that may restrict platform competition. These include issues such as those that relate to competition and fair treatment of, businesses that use these platforms to list and sell products. In particular, small and medium enterprises and businesses owned by historically disadvantaged persons which are unable to competitively compete with established dominant e-commerce stores. In a clarification note, the Competition Commission also points out that foreign based online platforms that facilitate transactions with South African consumers or businesses fall within the scope of the Inquiry even if they have no physical presence in South Africa.

In an effort to promote fair competition in South Africa, the FSOI raises a number of issues relating to businesses using online platforms. These include the general lack of platform initiatives to support the transformation of the online economy and the increased involvement of South African businesses on global platforms. It also highlights the fairness of platform terms and conditions, including payment terms, liability for loss and termination on the platform.

Online Market participants and other interested parties are invited to provide their views and information on the issues identified. To assist businesses that use online platforms to have their voices heard, the Inquiry released an online survey that required only 20 minutes to complete. The deadline for submission was 23 September 2021.

On 16 September 2021, the Inquiry released a call for participation in the public hearings to all stakeholders that can provide insights into the functioning of the online economy. This includes factors that may hinder competition or participation and proposals on solutions to any issues identified. The call extends to both large and small online platforms and retailers, the businesses that use these online channels to reach consumers, business organisations, venture capitalist that invest in the digital economy and the public that make use of the online channels. Stakeholders who wish to participate in the public hearing need to submit a request to participate by 30 September 2021.

Protocols that were introduced to curb the spread of covid-19 such as social distancing have resulted in the proliferation of online businesses. This Inquiry came at an opportune time as a number of local businesses look to explore online markets. The Inquiry will ensure that voices of small and medium enterprises and businesses owned by historically disadvantaged persons are heard. Thus, making sure there is healthy competition within the online markets.

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