

Commission publishes terms of reference for inquiry into fresh produce market

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On 14 February, the Competition Commission (Commission) published the *Fresh Produce Market Inquiry Terms of Reference*, announcing its intention to conduct a market inquiry into the fresh produce market of South Africa. The market inquiry will commence at least 20 business days after the publication of the Terms of Reference (ToR).



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In November 2021, the Commission conducted a study into market concentrations, identifying concerning levels of concentration in South Africa's fresh produce and agro-processing sectors. During its study, the Commission noted that the sharp decline in the number of commercial farms could be as a result of the challenges small scale farmers face in reaching the economies of scale to decrease costs and maintain profitability. The Commission, noting the essential role that agriculture plays in the South African economy - contributing to food production and security, job creation and raw material supply to agro-industrial and manufacturing sectors - has prioritised the food and agro-processing sector in its Prioritisation Framework since 2008.

The Commission is of the opinion that the market inquiry is essential in order to understand the state of competition within the industry, the market features which affect price outcomes, the challenges faced by farmers, and the importance of the sector to both the economy, employment and the welfare and health of citizens. The focus of the inquiry will be on identifying whether there are any impediments within the markets that restrict or distort competition and market outcomes. The inquiry will focus on both particular and ancillary issues at each layer of the value chain, from the sale of fresh produce by the farmer to the customer. Following public comments and inputs from stakeholders, interaction with retailers and to a certain extent end consumers will not be excluded from consideration during the inquiry. The Commission has announced that the inquiry will be limited to certain fresh produce items, a list of which is yet to be published.

The Commission has identified three broad themes for the inquiry, which will address the impediments to competition and market outcomes:

The first is the efficiency of the value chain, with an emphasis on the dynamics around fresh produce market facilities. This theme is based on concerns raised by stakeholders in the markets, that the value chain at the level of the national fresh produce markets is inefficient and uncompetitive.

The second area of focus is the market dynamics of key inputs and its impacts on producers, namely the presence of price discrimination, buyer power and exclusivity.

Thirdly, the Commission will consider the barriers to entry, expansion and participation in the fresh produce market. Specific consideration will be given to the barriers faced by small, medium and micro enterprises (SMMEs) and firms owned or controlled by historically disadvantaged persons (HDPs). The third theme will also involve considering pieces of legislation and the conduct of other regulatory or government entities in relation to such legislation.

The market inquiry will commence after the publication of the final ToR and on a date to be communicated by the Commission. The final report will be completed within 18 months after the commencement of the inquiry.

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