

ECONOMIC DEVELOPMENT DEPARTMENT

NO. 180

22 FEBRUARY 2019



*competition***commission**  
*south africa*

**AMENDED TERMS OF REFERENCE FOR MARKET  
INQUIRY: Private Healthcare Sector  
February 2019**

## 1. BACKGROUND

The Inquiry has been in existence since 6 January 2014 and has been extended several times in previous gazettes<sup>a</sup>. In November 2018, the Inquiry completion date was extended to 29 March 2019.<sup>b</sup>

The Inquiry published its Provisional findings and Recommendations Report on 5 July 2018 and received most stakeholder comments and responses in September 2018. However, some stakeholders requested for access to underlying data and information through the data room process, in order to assess the evidence relied on by the Inquiry in coming up with its Provisional Findings and Recommendations Report. In this regard they also requested and were granted extensions to submit their responses later in November 2018. By December 2018, the HMI had received a total of 69 stakeholder responses. These have been published in the HMI website.

To date the Panel and technical team have made good progress in reading, reviewing and analysing stakeholder responses and submissions received with due diligence, although the process remains underway.

On 23 January 2019 however, the Competition Commission (the Commission) published a stakeholder notice in which it notified all stakeholders that the work of the Inquiry Panel and external consultants would be suspended due to the Commission's budgetary constraints. It was also announced that the Inquiry would resume in Quarter 1 of the 2019/20 financial year (i.e. 1 April 2019). On 4 February 2019, the Inquiry Panel published a stakeholder notice in which they committed to finishing the Inquiry and working towards finalising the Inquiry Final Findings and Recommendations Report when the Inquiry resumes. It was also communicated that the HMI technical team would, during the suspension of the Inquiry, continue in its role of supporting the Inquiry, including reviewing stakeholder submissions received.

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<sup>a</sup> Amended Terms of Reference for Market Inquiry: Private Healthcare Sector, Government Gazette no. 40480; Government Gazette no. 41311.

<sup>b</sup>Government Gazette no.42068.

The Inquiry had planned to hold several seminars relating to funder's market concentration, facilities market concentration as well as Excessive utilisation and Supply Induced Demand in February 2019. The seminars have however, also been postponed and will be prioritised and held when the Inquiry Panel resumes its work.

## **2. AMENDMENT OF THE TERMS OF REFERENCE**

In terms of section 43B(5) of the Competition Act 1998 (as amended), the Commission may, by way of an amendment to the Terms of Reference, amend the scope of the Inquiry, or the time within which the Inquiry is expected to be completed, by further notice in the Gazette.

The scope of the Inquiry remains the same.

The recent interruption to the work of the Inquiry, as well as the requirement for further extensive stakeholder engagements in respect of key aspects of the Inquiry Provisional Findings and Recommendations Report, necessitates a further amendment to the Inquiry completion date.

Upon completion of the Inquiry outstanding work, including among others: stakeholder response reviews and submissions; assessment of evidence; further research; stakeholder engagements, and seminars, the Panel will consider the extent to which it needs to revise its Provisional Report with the view to publishing the Final Findings and Recommendations Report.

In terms of the amendment, the Inquiry Final Report and Recommendations, will be completed by **30 September 2019**.

A detailed revised administrative timetable will be made available on the Inquiry website by no later than 28 February 2019.