



CALL FOR SUBMISSIONS

20 September 2017

1. The Competition Commission (the “**Commission**”) has initiated a market inquiry into Data Services in South Africa in terms of Chapter 4A of the Competition Act No. 89 of 1998 (as amended) (the “**Act**”). The Terms of Reference (“**ToR**”) for the market inquiry were published in the Government Gazette No. 41054 on 18 August 2017. The ToR is available on the Commission’s website (www.compcom.co.za).
2. The Commission now invites any and all stakeholders who wish to participate in this Inquiry to make formal submissions. All the submissions must be accompanied by a signed **DSI1** form. Submissions should be in accordance with the requirements set out in the Data Services Market Inquiry Guidelines for Stakeholder Participation which are available on the Commission’s website (www.compcom.co.za). The closing date for submissions is **1 November 2017**. Stakeholders include all consumers, firms, organisations and other bodies that have an interest in data and telecommunications markets, including those directly involved in these markets and those that are affected by such markets more broadly.
3. Submissions should not be limited to the specific issues identified in the ToR and may be extended to other issues which may be relevant to the Inquiry and which may impact the data prices faced by businesses, government and consumers in South Africa.
4. The main purpose of the market inquiry is described in the ToR:

“... The main objectives of the market inquiry are to:

- 1. Obtain a clear understanding of the data services value chain, including the interaction and commercial relationships between different levels of the value chain, and the relationship with other parts of the ICT sector and the broader economy.*
- 2. Assess the state of competition in the market at every stage of the value chain for provision of data services in order to identify areas of market power where customers or consumers may be exploited or excluded by firms and to identify any other structural, behavioural or*

regulatory factors that may influence competition or pricing. The assessment would include but not be limited to:

- *Market structure;*
- *The general adequacy and impact of the current regulatory regime;*
- *Strategic behaviour by large fixed and mobile incumbents;*
- *Costs faced and profits earned by fixed and mobile network operators;*
- *Current arrangements for sharing of network infrastructure;*
- *Investment in infrastructure by operators and access to, and allocation of, spectrum as they relate to data services price and competition concerns; and*
- *The adequacy of regulation to promote new South African entrants (particularly historically disadvantaged individuals), including but not limited to matters such as dynamic spectrum access and local loop unbundling.*

3. Benchmark South African data services pricing against those of other countries.

4. Establish whether data supply quality and coverage is adequate by international standards and the country's developmental needs.” (original paragraph numbering removed)

5. In addition, the Commission is providing a list of questions that may guide the submissions by stakeholders in respect of the issues identified above. These questions are not intended to limit the extent of the submissions by stakeholders, but rather to guide stakeholders in thinking about the issues to be covered by the market inquiry.
6. Submissions should be as detailed as possible and any views or opinions expressed should be substantiated, as far as possible, by evidence or studies conducted by the stakeholders. As described in the ToR, the stakeholders in the market inquiry process “...will include firms directly or indirectly involved in the data services value chain, as well as those that have an impact on competition in the sector”. Furthermore, the “inquiry will also include participation by business and trade associations, government departments, public entities, regulatory authorities, consumers and consumer groups, and any other stakeholder that may be able to provide information relevant to the market inquiry. Members of the public are encouraged to participate fully in the inquiry process.”
7. All participants are encouraged to provide any relevant information to assist with the inquiry's objectives quoted above in paragraph 4. This information can include, but is not limited to, the stakeholder's own data, any market study information and any international experience or studies. It would be most helpful to the Commission to receive submissions that provide verifiable and evidence-based facts to support specific arguments.

Guideline questions

8. The Commission is requesting you to provide detailed responses to each of the questions below. In addition, you are also invited to provide further data and/or information that is relevant in assessing the pricing of data services in South Africa and the state of competition in the markets for provision of data services. Where possible, you are requested to use examples to illustrate/substantiate your responses as well as to provide evidence-based data and information as described in paragraphs 6 and 7 above.

Data prices and services in South Africa

9. Current market research suggests that data prices in South Africa are significantly higher than many other countries, both in Africa and internationally. In light of the recent research, the following questions pertain to prices for data services in South Africa:
- 9.1 In your view, how do data prices in South Africa compare to other countries?
 - 9.2 For which specific data markets, products or services (whether for data services alone or a product that includes additional services) are prices high in South Africa? Please substantiate your response.
 - 9.3 In your view, what are the main causes for the higher prices for data services in South Africa? In your answer you could refer to probable causes such as cost issues, competition issues or regulatory issues. Please elaborate and provide any available evidence.
 - 9.4 With regards to data services and related products used in South Africa, please list all services that you currently use as an end-consumer and/or as a business or other such entity. Please provide details on the following:
 - 9.4.1 The exact products/services used;
 - 9.4.2 Whether you use these as a private consumer or business/organisation (or both where appropriate);
 - 9.4.3 The name of the service provider/s; and
 - 9.4.4 The pricing and contractual arrangements involved.

The data services value chain

10. Describe the entire value chain for the provision of data services. Include the following in your description:

- 10.1. The different levels of the value chain and the activities thereof;
- 10.2. A list of all stakeholders active in each of the levels of the value chain (to the best of your knowledge);
- 10.3. The nature of commercial relationships between the different levels of the value chain; and
- 10.4. How each level of the value chain identified above is linked to other parts of the Information and Communication Technology sector, and the economy more broadly.

The state of competition in the provision of data services

11. How do existing firms conduct themselves in the markets for the provision of data services, whether with respect to other firms (competitors or potential entrants) or with respect to their customers?
 - 11.1. Are there firms that operate as monopolies at any level of the value chain for the provision of data services? Are there firms which have market power in any data market, service or product? Elaborate and provide examples.
 - 11.2. Across the value chain for data services, are there any firms that engage in any conduct that could be seen as unfair or anti-competitive? Please elaborate and provide examples.

Telecommunications regulation and spectrum allocation

12. There are a variety of regulations, legislation, and regulatory bodies – including the Independent Communications Authority of South Africa (“ICASA”), the Department Of Telecommunications and Postal Services (“DTPS”), and the Department of Communications (“DOC”) – that inform the functioning of the telecommunications sector in South Africa. In light of this, please answer the following questions:
 - 12.1. How does the current regulatory environment in the telecommunications sector impact (i) the ability of existing firms to charge high prices for data, (ii) the level of competition, and (iii) the potential for entry?
 - 12.2. Provide your understanding and view of the roles of ICASA, DTPS, DOC and any other relevant body in the sector with respect to prices for data services in South Africa.
 - 12.3. Provide your view of any recent regulatory changes and proposed amendments to the Electronic Communications Act – such as those focusing on rapid rollout of infrastructure and sharing of network infrastructure – to the extent that they relate to prices for data services and products.

Spectrum

13. As the demand for data in South Africa escalates, the allocation of, and access to, spectrum in South Africa has become a key issue in the sector and for data services in particular. With regards to spectrum, please answer the following questions:
- 13.1. How do issues of spectrum access and allocation affect competition and the potential for new entry?
- 13.2. How do you view the role of spectrum in the mobile market and how do you think spectrum affects costs and pricing of data services?

Adequacy of data supply quality and coverage

14. Please address the following questions:
- 14.1. In your view, is data supply quality and coverage in South Africa adequate by international standards and the country's development needs? Please elaborate.
- 14.2. How are businesses and consumers in low-income, under-developed, or rural areas affected by South Africa's data services challenges?

Further submissions

15. Kindly provide submissions on any other issues not referred to in the ToR that you view as relevant to the price of data services in South Africa. Please detail these issues and provide verifiable evidence in support of your submission.
16. The deadline for all submissions is **1 November 2017**. All submissions must be accompanied by a completed **DSI1** form, as described in the Data Services Market Inquiry Guidelines for Stakeholder Participation document (available on www.compcom.co.za). Submissions should preferably be directed to the Commission via email on: datainquiry@compcom.co.za.