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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF ECONOMIC DEVELOPMENT

NO. 1389

08 DECEMBER 2017



*competition***commission**
south africa

**AMENDED TERMS OF REFERENCE FOR MARKET
INQUIRY: Private Healthcare Sector
December 2017**



1. BACKGROUND

On 29 November 2013, the Commission, acting under Chapter 4A of the Competition Act, 89 of 1998 (as amended) (the Act), published a notice that it would be conducting the Health Market Inquiry (HMI) as well as a Terms of Reference (TOR) for the Inquiry. The Commission decided to undertake such an inquiry on its own initiative because it has reason to believe that there are features of the sector that prevent, distort or restrict competition, and in order to promote competition in furtherance of the purpose of the Act.^a

The Inquiry has been in operation since 6 January 2014 and was initially set to be completed on 30 November 2015. In October 2015, the Commission amended the Inquiry completion date to 15 December 2016. This was further extended to 15 December 2017, in the government gazette published on 9 December 2016^b.

While the Inquiry has made significant progress with gathering evidence and analysis of data and information it received^c, requests for access to underlying confidential data and information that forms the basis of the analysis report results, have had an impact on the timeframes.

In May 2017, the Inquiry commenced with the data room process to enable stakeholders to engage on the analysis report results. Some stakeholders have requested for further access. Engagements on the published reports as well as those that the Inquiry intends publishing later, will continue in preparation for the Provisional Report. The Final Report and Recommendations will be made after stakeholders have had the opportunity to provide further comments on the Provisional Report.

^a Section 43B(1)(i) and section 43B(1)(ii).

^b Amended Terms of Reference for Market Inquiry: Private Healthcare Sector, Government Gazette no. 40480.

^c The Inquiry published several analysis reports at the end of 2016.



AMENDED TERMS OF REFERENCE FOR
MARKET INQUIRY: Private Healthcare
Sector December 2017

2. AMENDMENT OF THE TERMS OF REFERENCE

In terms of section 43B(5) of the Act, the Commission may, by way of an amendment to the TOR, 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 data access issues and extensive engagements and processes required to thoroughly deal with such issues has led to delays. In addition, the Inquiry intends publishing further analysis reports for comment which will also require that further access be provided to allow stakeholders to test the robustness and reasonableness of the report results. This necessitates a further amendment to the Inquiry completion date.

In terms of the amendment, the final Inquiry report, which may include recommendations, will be completed by **31 August 2018**.

Further details regarding the amendment to the administrative timetable will be made available on the Inquiry website.

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