Competition Law

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Don't count your chickens before they hatch: The Competition Commission's inquiry into the poultry industry

On 6 February 2023, the Competition Commission (Commission) published its draft terms of reference for its inquiry into the poultry industry (ToR) established in terms of section 43B of the Competition Act 89 of 1998 (Competition Act). The Commission has indicated that there are market features within the poultry industry that are likely to impede or distort competition. The features include structural indicators, the outcomes in the industry and certain conduct along the value chain. It stated that taking steps to address these market features through a market inquiry could benefit industry competitiveness and consumers through the improvement in competition.

Background

The Commission believes that the South African poultry industry is dominated by a few large, vertically integrated companies. The poultry industry is responsible for producing 65% of all animal protein consumed in South Africa, comprising the production of both chicken meat and eggs. Poultry producers generally specialise in either broiler production for the overall supply of chicken meat products, or the production of commercial egg products. The poultry value chain consists of the production and supply of day-old broiler chicks and layer pullets (day-old chicks reared for commercial egg production); the rearing of broilers to produce chicken meat products or the rearing of point-lay hens to produce commercial eggs; processing (abattoirs); and marketing activities.

Market features of the poultry value chain

The Commission stated that integrated firms sell inputs to their internal operations and contract growers, as well as to independent and emerging farms and producers in the value chain, creating a reliance on a large competitor by emerging players:

- **Genetic material**: Concentrated globally with 90% of all broiler production coming from breeds owned by companies abroad. Only four South African companies have rights for these breeds in the South African market.
- **Day-old chick supply**: Local distributors control the value chain from the import of breeding stock to the supply of day-old chicks.
- **Feed**: 75% of the feed is produced by firms that are owned by the vertically integrated companies.
- **Egg supply**: The market is dominated by large players, with three firms supplying 51% of the market.
- **Broiler production and supply**: Two firms dominate local production.

The vertical integration in the poultry industry also means that the same large firms dominate at each level of the poultry value chain. Despite the Government's industrial policy interventions and active trade policies, the poultry industry has not changed materially in years. Aside from the generic challenges which all businesses face in the

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current economic climate, the following factors are seen to have the effect of impeding growth of new producers in competing with existing producers in the poultry industry:

- Difficulties in sourcing fertile hatching eggs and good quality day-old chicks together with late delivery of day-old chicks and substandard quality of delivered day-old chicks.
- Difficulties in sourcing reasonably priced feed and vaccines coupled with poor or erratic water and electricity supply and access to abattoir services.
- The lack of working capital, cashflow problems and low or no profits.
- Unstable or poor market conditions, high mortality rates due to inclement weather and disease, and a lack of training and skills in poultry husbandry and abattoir management.
- The lack of independent abattoirs to market and sell dressed chicken meat into the formal sectors.

Scope of the inquiry

The inquiry will focus on assessing whether there are any market features in the South African poultry industry which impede, restrict or distort competition or undermine the purpose of the Competition Act. The main objectives of the inquiry in relation to both the chicken meat and egg value chains are to:

- Evaluate whether market features distort competition throughout the value chain, including the pricing and access to quality key inputs such as genetic stock, parent stock, feed, eggs, day-old chicks of pullets, abattoirs and cold chain logistics.
- Evaluate the impact of large integrated producers as gatekeepers of key inputs, particularly feed and day-old chicks, on the production of small and medium-size enterprises and/or businesses owned by historically disadvantaged people.
- Evaluate whether the commercial relationship between contract growers and integrated producers at all levels of the value chain is characterised by imbalances in bargaining power and information asymmetry and understand the impact of such imbalances on competitive outcomes.
- Evaluate the role of retailers, quick service restaurants, and processed food companies in facilitating new entry and access to markets.

Given that South Africa's poultry industry is reliant on imports, and poultry production is affected by a variety of external factors such as global demand and the negative effects of load-shedding, attempting to impose remedies to address the Commission's perceived concerns may be more challenging than anticipated. The Commission has invited members of the public and interested stakeholders to make written comments on the proposed ToR by no later than 8 March 2024. The written submissions can be sent to pmi@compcom.co.za. After all submissions have been reviewed a final ToR will be published.

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