

Panel of Private Healthcare Inquiry addresses stakeholders



By [Leana Engelbrecht](#)

2 Jun 2014

On 16 April 2014, the panel of the Competition Commission's Private Healthcare Inquiry, through the presiding chairperson, retired Chief Justice Sandile Ngcobo, addressed stakeholders in respect of matters relevant to the Private Healthcare Inquiry.

The chairperson remarked that the purpose of the Private Healthcare Inquiry "...is to determine whether the process of competition is working well or can be improved effectively in a market as a whole. Market inquiries provide a framework for identifying, analysing and, where appropriate, remedying sector-wide or market-wide competition problems".

The chairperson comforted stakeholders by indicating that the inquiry is not accusatory in nature and nobody is accused of anti-competitive conduct, but rather the focus and aim of the inquiry is to analyse competition in the private healthcare market holistically while giving effect to the principles of fairness. Nevertheless, it is a reality that the market inquiry may lead to complaint initiations against certain firms or other relevant remedies allowed for in terms of the Competition Act, No 89 of 1998.

Rules of engagement

The chairperson further indicated that rules of engagement (or administrative guidelines) that govern the conduct of the market inquiry are in the process of being developed and it is anticipated that these rules of engagement will be published by the end of May for comment by stakeholders and will ultimately be published on 1 August 2014.

The administrative guidelines will determine the manner in which stakeholders engage with the panel and will facilitate the gathering of information and the conduct of the market inquiry including, how confidential information is dealt with, the conduct of public hearing, the submission of information to the panel, administrative phases of the inquiry and the expected outcomes of the inquiry.

A further statement of issues will be published together with the administrative guidelines to set out what the anticipated scope of the investigation of the inquiry would be. The chairperson stressed that stakeholder participation will be welcomed in settling the statement of issues and that the statement of issues may, from time to time, be revised.

Theories of harm

It was further indicated that perceived theories of harm (being the perceived conduct that amounts to harmful competitive

effects in the market for private healthcare) that have been identified to guide the panel in its investigations during the inquiry, include market power and market concentration, barrier to entry and expansion, imperfect information, the existing regulatory framework and vertical relationships.

The provisional timetable in respect of the main stages of the inquiry was announced as follows:

- 31 May 2014: Statement of issues and administrative guidelines issues for public comment;
- 30 June 2014: Panel to receive comments on the statement of issues and administrative guidelines;
- 1 July 2014 - 31 July 2014: Panel to incorporate comments on statement of issues and administrative guidelines;
- 1 August 2014: Final statement of issues and administrative guidelines to be published;
- 1 August 2014: Call for submissions on subject matter of the inquiry;
- 1 August 2014 - 30 October 2014: Submission on subject matter of the inquiry to be received;
- 1 November 2014 - 31 January 2015: Analysis of information;
- 1 March 2015 - 20 April 2015: Public hearings;
- 1 May 2014 - 31 July 2015: Analysis and targeted public hearings and information requests; and
- October 2015: Publishing provisional findings and recommendations.

The chairperson urged stakeholders to participate in the inquiry as frank and comprehensive participation will lead to various perceived benefits to consumers, market participants, regulators and government.

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