

# Mall retail exclusivity provisions under scrutiny

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The Competition Commission on Thursday announced the appointment of a panel for the grocery retail sector market inquiry which is due to tackle the exclusivity of lease agreements at shopping malls - a battle being fought largely among big retail chains.



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Halton Cheadle, Lulama Mtanga and Lumkile Mondli have been appointed as chairman and panelists of the enquiry, respectively. The hearings are likely to be completed by 29 May next year.

First announced in May last year by Economic Development Minister Ebrahim Patel, the enquiry will also look into whether there are features in the grocery retail sector that lessen, prevent or distort competition market dynamics.

The probe comes as the long-delayed private healthcare market inquiry got under way in Pretoria this week. By far the most contentious issue to be scrutinised is that of lease exclusivity at malls. Court cases on exclusivity clauses involving Shoprite, Pick n Pay, Massmart and Fruit & Veg City's Food Lover's Market have so far delivered mixed results.

In some instances exclusivity clauses have been relaxed but Massmart, which is pushing into the grocery space, has hit a brick wall, spurring it to file a complaint with the competition authorities in September 2014. Mall developers often sign exclusivity agreements with anchor tenants in the hope that they will attract other high-quality businesses and shoppers. The

agreements block the sale of certain types of food by other retailers.

**Source:** Business Day

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