

Attention: Louise du Plessis, Competition Commission
louised@compcom.co.za

3 July 2015

Representation concerning the terms of reference on the grocery retail sector market inquiry, Notice 580 of 2015, Government Gazette No. 38863, 12 June 2015

We, the undersigned civil society organisations / individuals work on food security and other issues in the agro-food system in South Africa. We have noted the concentration of corporate and financial power throughout agro-food value chains, and especially in food wholesaling and retailing. We are concerned about the impacts of this power on the food options and choices of the population, especially those in low income categories, as well as the impacts on the opportunities for creating livelihoods within the food system.

We therefore welcome the Competition Commission's proposed inquiry into the grocery retail sector market, and would like to indicate our interest in actively participating in the inquiry.

We have the following specific comments to make on the terms of reference (ToRs):

The ToRs do not indicate the timelines for the inquiry itself as specified in section 43B (2) of the Competition Act [2.4]. We request an indication of the timeline for the inquiry.

The ToRs may be inflating the importance of the big retailers by indicating they have 90% of the market [3.1]. Putting aside the question of wholesaling as a closely related activity, and the rise of hybrid wholesale-retailing, this 90% would only refer to the 'formal' market. If we include the informal sector it is likely to fall to 60-65% of the total food wholesale/retail market. This will certainly be something for the Commission to investigate in the inquiry. While it is important to recognise the concentration in formal food retailing, it is also important not to underplay the continuing importance of the 'informal' food distribution channels.

We think it is important to note the extent to which the big retailers gain an advantage by the disbursement of social grants at supermarket pay points [3.2]. This channels food expenditure of the poor towards these corporations on pay-out days, marginalizing independent, informal and emergent businesses and service providers – with grave consequences for the rural economy.

We would like to note that although the inquiry focuses on the grocery retail sector, similar dynamics are taking place elsewhere in the food system, including fast food and food service, and food processing, where corporate concentration is shaping the options and choices of consumers. Ultimately these are interconnected and grocery retailing is embedded in broader processes.

We request the Commission to expand the ToRs to include the following:

(1) Considering the role of property developers

Noting the negative impact of exclusive leases in malls on customer choice, competition and quality of service [3.6], the ToRs should be expanded to consider the role of property developers and financiers in shaping decisions about where to site malls and shopping centres. In this regard we note the rise of partnerships between corporate retail, property developers and banks (for example Shoprite, Resilient Properties and Standard Bank) to develop malls.

- Are new areas of opportunity being driven by supermarket expansion strategies or are the supermarkets reacting to property developers siting new shopping centres and malls in new areas? If this is the case, where is the financing for these new malls being sourced?
- What role are the developers playing in this process?
- Further to this, what is the role between the various spheres of government and these developers?
- Does the location and design of supermarkets and shopping centres favour consumers with access to private motorised transport and to what extent does the location of such retail centres engage and interface with mass public transport and non-motorised transport?
- Does this spatial location and design dimension marginalise, disadvantage or exclude low-income consumers?

(2) Addressing concerns about xenophobia

We are concerned about the formulation of the inquiry into small and independent foreign-owned retailers. This was already interpreted in the media as being an “investigation into foreign shopkeepers’ conduct”¹ with xenophobic undertones. The ToRs should make it explicit that foreign small and independent retailers provide a service and bring employment² and that a study on local conditions of food retailing and trading should be even-handed and seek to strengthen the livelihood opportunities for all who are engaged in this sphere. The evaluation should not focus on the distinction between foreign- and locally-owned businesses even though this is a useful dimension to consider. Further, there appears to be a contradiction in this section of the ToRs because greater competition (between foreign-owned and local retailers) is seen as the threat, whereas elsewhere competition is identified as something to be promoted.

(3) Inclusion of street trading and hawking

In 4.1 where the grocery retail sector is identified, we propose that street traders/hawkers are explicitly included in the definition. The ToRs refer to “all kinds of shops” and starts from spazas. This may give the impression that only formally constituted enterprises that occupy a permanent building will be covered in the scope of the inquiry. There were an estimated half a million street vendors in 2007³, creating up to 415,000 jobs⁴. To leave these traders out of the inquiry would be an error.

(4) Supply chain governance

We believe that an investigation into corporate retail power cannot leave out the crucial issues of a) supermarkets’ practices in relation to their suppliers and to what extent such practices may prohibit smaller suppliers from accessing these supermarkets; and b) the impact of supermarket buying power on the future of municipal fresh produce markets, still an important point of off-set for smaller commercial producers, but increasingly under pressure. On supply chain practices, of particular concern is prohibitive listing and shelf space fees and terms of payment which, at 90 days after invoice, carries immense costs and risks for small-scale farmers and emerging producers. Regional distribution centres may further intensify trends favouring concentration and consolidation in the sector, excluding small-scale producers and suppliers. We would also request the Commission to investigate the impacts of the major retailers’ buying practices on the wages of workers in the food system, especially farm workers.

¹ “Grocery retail probe to widen beyond Big Four”, 15 June 2015 <http://www.fastmoving.co.za/news/retailer-news-16/grocery-retail-probe-to-widen-beyond-big-four-7127>

² Gauteng City Region Observatory (GCRO) “Informal sector entrepreneurship and trade in the GCR: - who is hurting whom in xenophobic attacks?”, GCRO Newsletter, 5:1, May 2015 <http://www.gcro.ac.za/newsletters>

³ Wills, G. 2009 “South Africa’s informal economy: A statistical profile”, *WIEGO Urban Policies Research Report*, No.7, WIEGO

⁴ Ligthelm, A. 2006 “Size estimate of the informal sector in South Africa”, *Southern Africa Business Review*, 10:2, pp.32-52

(5) Impacts on local multipliers

Noting the decline of small retail businesses and the adverse effects on employment in this sector caused by corporate retail expansion [3.4], the ToRs must be extended to look at the impacts on local multipliers in the rural formal and informal economy more generally, and the implications for employment beyond just the food retail sector.

(6) Nutritional impacts

There is a rising concern regarding the nutritional and health impacts of corporate concentration in food retailing in South Africa. Alongside hunger there is increasing evidence of more sugar and fats in the diet of most South Africans, as well as additives and other ingredients (see Igumbor, *et al.*, 2012). This affects both poorer and wealthier consumers. Supermarkets are directly implicated in the increasing consumption of highly processed foods by poor and disadvantaged South Africans. The Commission should also investigate aggressive marketing strategies, as well as shelf space allocations to different types of products, for example the extent to which processed food from corporate chains receives a far greater share of shelf space and more prominent location than whole foods or foods from local and smaller producers. We urge the Commission to open the inquiry to look into the long-term health impacts of corporate retailing.

The inquiry should also consider the issue of food labelling and traceability standards which would enable consumers to make more informed, healthy as well as socially and ecologically responsible choices. To what extent do current food labelling practices in food retail promote consumption of food with adverse health impacts or obfuscate food additives with potentially harmful ingredients? To what extent does current food retail labelling accurately reflect GMO content, for example?

(7) Pricing

Finally, the ToRs do not include anything on food prices, like the impacts of concentration in formal retail on food prices. There is already some evidence of ‘asymmetric price transmission’ (e.g. Cutts and Kirsten, 2006), where retailers increase food prices when the underlying price of agricultural produce goes up, but do not reduce these prices if the underlying prices come down. We call on the Commission to expand the ToRs to include investigation into this and into the possibility of regulating the prices of basic food items.

Conclusion

As noted, we welcome the launch of this inquiry and are interested in participating in the process. We request the Commission to provide us with timeous information and to include us in the process as it unfolds.

We are open to further discussions with the Commission and will make material available.

Some recent publications relevant to the inquiry can be found at the following links. Unfortunately some of these are behind paywalls, but can be made available on request.

African Centre for Biosafety 2014. “GM contamination, cartels and collusion in South Africa’s bread industry”, <http://acbio.org.za/wp-content/uploads/2015/02/GM-Bread-201405.pdf>

Battersby, J., Haysom, G., Tawodzera, T., Kroll, F. & Marshak, M. (forthcoming) “A study of current and future realities for urban food security in South Africa” for the Southern Africa Cities Network (SACN) is in a draft form and can be made available on request

Battersby, J. and Crush, J. 2014. “Africa’s urban food deserts”, *Urban Forum*, 25:2
<http://link.springer.com/article/10.1007/s12132-014-9225-5>

Battersby, J. and Crush, J. 2014. "Supermarket expansion across Cape Town", *Urban Forum*, 25:2 <http://link.springer.com/article/10.1007/s12132-014-9225-5>

Cutts, M. and Kirsten, J. 2006. "Asymmetric price transmission and market concentration: An investigation into four South African agro-food industries", *South African Journal of Economics*, 74:2 <http://onlinelibrary.wiley.com/doi/10.1111/j.1813-6982.2006.00064.x/abstract>

Igumbor EU, Sanders D, Puoane TR, Tsolekile L, Schwarz C, Purdy C, Swart, R, Durao, S. and Hawkes, C. 2012. "'Big food', the consumer food environment, health, and the policy response in South Africa", *PLoS Med* 9:7
<http://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1001253>

We look forward to further engagements with the Commission on the inquiry.

Endorsements:

Institute for Poverty, Land and Agrarian Studies (PLAAS), University of the Western Cape
www.plaas.org.za

African Centre for Biodiversity (ACB) www.acbio.org.za

Grass Consumer Action <https://grassconsumeraction.wordpress.com/>

Eco Atlas www.ecoatlas.co.za

South African Food Sovereignty Campaign (SAFSC) <http://www.safsc.org.za/>

Phillipi Horticultural Area (PHA)

Mr Glenn Ashton, researcher ekogaia@iafrica.com

Dr Jane Battersby-Lennard, African Centre for Cities (ACC), University of Cape Town
jane.battersby.lennard@gmail.com

Mr Andrew Bennie, co-ordinator, SAFSC bennieand@gmail.com

Ms Rhian Berning, Eco Atlas, rhian@ecoatlas.co.za

Prof Andries du Toit, Director, PLAAS adutoit@plaas.org.za

Dr Stephen Greenberg, research fellow, PLAAS sgreenberg@plaas.org.za

Dr Gareth Haysom, ACC gareth.haysom@uct.ac.za

Assoc. Prof Ruth Hall, PLAAS rhall@uwc.ac.za

Ms Wendy Hardie, Grass Consumer Action hardie@iafrica.com

Ms Leonie Joubert, science writer/author; doctoral fellow with the Environmental Humanities of the South, University of Cape Town leonie.joubert@scorched.co.za

Prof Bridget Kenny, Dept of Sociology, University of the Witwatersrand Bridget.Kenny@wits.ac.za

Mr Florian Kroll, researcher krollconsult@gmail.com

Ms Mariam Mayet, Director, African Centre for Biodiversity (ACB) mariam@acbio.org.za

Ms Sonia Mountford, Grass Consumer Action soniadv2@yahoo.co.uk

Mr Grant Rahme, grantunit@glbiz.net

Emeritus Prof David Sanders, School of Public Health, University of the Western Cape
sandersdav5845@gmail.com

Mr Nazeer Ahmed Sunday, PHA nasonday@gmail.com

Ms Margareet Visser, Labour and Enterprise Policy Research Project, Faculty of Law, University of Cape Town margareet.visser@uct.ac.za