



# Fresh produce markets: Competition Commission suggestions

By Susan Marais, Plaas Media

**T**he Competition Commission's Fresh Produce Market Inquiry (FPMI) has identified specific companies and bureaucratic systems that need to change in order to ensure fairer and more accessible markets for all role-players.

Early in the inquiry, it was found that South Africa has two distinct supply models: one operating on a wholesale basis through national fresh produce markets (NFPMs) and another through formal retail channels. The formal retail channel poses no significant threat to the wholesale model used by NFPMs.

The commission discovered that NFPMs remain the epicentre of fresh produce trading, particularly because formal retail role-players, among others, consider NFPM prices when negotiating with their contracted producers.

## Dilapidated markets

The commission found that the overall condition of NFPMs is poor and deteriorating, mainly due to funding issues. The inquiry team also noted that most NFPMs are run inefficiently.

It was suggested that municipalities, in collaboration with the South African Local Government Agency, Salga, revise the operating and governance models for NFPMs. Willie Jacobs, CEO of Potatoes SA, supports this

proposal but believes it needs to be escalated to the national government for governance and to organised commerce for business management.

It was also recommended that municipalities ringfence profits earned from the market to fund capital expenditure and, where feasible, increase budget allocations for NFPMs from municipal budgets, beyond the revenue generated by the NFPMs.

"It is interesting that this point actually came up as advice because it should have been the principle of operation," says Jacobs, adding that the market levy should be more than sufficient to allow for this and for profit for the municipality.

## Small-scale and HDP producers

The inquiry team found that small-scale producers and historically disadvantaged persons (HDPs) have limited access to NFPMs. According to the Council for Black Market Agents (CBMA), the contribution of small-scale and HDP growers accounts for less than 1% of NFPM proceeds, despite seemingly low barriers to access.

To address this, the inquiry team suggested that all NFPMs set targets to increase the annual sales of small-scale and HDP producers to at least 10%, with these targets increased annually. Jacobs doubts whether this is possible. "Currently, sales in most

markets are dwindling due to poor management. How can the share of HDPs be promoted in a dwindling environment without taking it away from existing traders?"

In terms of bylaws, the inquiry team found discrepancies between the individual markets, which could hinder players from switching between markets, thus limiting their access. Jacobs agrees that harmonisation is needed. "Not only should it be harmonised, but there should also be accountability for contravening these bylaws and rules, enforced by an institution capable of imposing proper penalties and remedies."

## Market agents

Despite having preferential floor space on the market trading floors, HDP market agents struggle to participate effectively in the market. This is because large, established producers have longstanding relationships with their preferred market agents, making it difficult for HDP agents to access produce such as potatoes, tomatoes, onions, and bananas.

The inquiry team suggested that large and established producers (with a turnover of more than R35 million in the previous financial year and over 250 full-time employees) implement programmes to introduce new HDP market agents and ensure they have access to highly traded produce.

Jacobs questions the feasibility of this proposal, posing the question: "How will prospective market agents and these producers be introduced? Are we expecting these producers to conduct recruitment drives? What happens once they are introduced but there is no product to sell?"

"Access to traded produce is not created on the market floor. Market agents source the product by interacting with producers at farm level. The best approach is for an entity to facilitate introductions between aspiring traders and producers at social or business events, where they can market their skills directly."

### Developing salespeople

The inquiry team recommended that the Agricultural Produce Agents Council (APAC) develops a quantifiable HDP salesperson development programme, prioritising existing salespersons from HDP market agencies. Jacobs points out that this falls outside APAC's jurisdiction as its mandate is to protect sellers, buyers, and market agents from business that will cause losses.

Another provisional recommendation was for dominant market agents, either by product line or overall market share per major NFPM (such as RSA Group, Subtropico, the Grow Group, Dapper Market Agents, and Prinsloo & Venter Market Agents), to enter into management agreements with small and medium enterprises or HDP market agents for skills transfer and training in managing the fresh produce market agency business. The commission said in its report that this remedy was previously voluntarily adopted with success by certain market agents.

Jacobs believes this is feasible. "Market agents can start by simply developing an internship model to introduce candidates to the environment."

The FPMI proposed that the Department of Agriculture amends the *Agricultural Produce Agents Act, 1992 (Act 12 of 1992)* to allow APAC to regulate market agencies' HDP ownership and participation.

However, this would require a new skillset and funding regime for APAC.

### Agent commission fees

While examining market agents' commission structures, the FPMI found that there was little to no variation among them. These commission structures were regulated by control boards until 1997, when APAC assumed regulatory responsibilities.

The commission recommended that the Department of Agriculture amends legislation to regulate the maximum commission fees that market agents could charge. Furthermore, costs associated with transport, palletising, and packaging should be negotiated or set outside of the commission fee structure.

"That might be achievable, but authorities need to consider possible bypasses and alternative models," Jacobs says, highlighting that logistics, palletising, and packaging are not things that could necessarily be regulated.

The inquiry team recommended that APAC and NFPMs' management use advocacy measures to educate producers regarding their ability to negotiate with market agents.

### Lack of transformation

The FPMI observed a conflict of interest within the APAC council. This council, which oversees the Registrar, includes the very market agents the Registrar must discipline if they violate rules. Moreover, the fresh produce industry is exclusively represented by the largest market agencies, with positions rotating among them, effectively excluding smaller and HDP market agents.

The FPMI suggested that the council's composition, particularly in respect of fresh produce, creates a conflict of interest by allowing market participants to oversee the sector regulator's executive officials. In addition, the lack of adequate rotation among council members has excluded adequate SME and HDP representation.

The commission therefore recommends that the Department of

Agriculture reviews the APAC council's composition to minimise conflicts of interest. However, Jacobs questions whether this would have a positive impact. "The purpose of APAC is for agents to keep each other credible," he says, "so it is unclear how this recommendation should work in practical terms."

### Structural distortions

The FPMI expressed concerns regarding a number of market agencies operating as subsidiaries of parent companies, particularly the three largest market agencies: RSA Group, the Grow Group, and Subtropico.

A significant issue cited is that African Rainbow Capital (ARC) holds a majority stake in RSA Group and a significant minority stake in Subtropico. The FPMI suggested that ARC's cross-shareholding in Subtropico and RSA Group is distorting competition by eroding the incentive for these companies to compete with each other.

Consequently, the FPMI recommended that ARC divest its shares in either Subtropico or RSA Group, with the preferred buyer being a broad-based black economic empowerment company. However, Jacobs says ARC, a fully black-owned company, was established in 2015 with the aim of providing HDPs access to investment opportunities in the industry. Therefore, the comments regarding disinvesting do not seem logical.

### Retailers

The FPMI made several observations regarding retail prices, mark-ups, and margins for the retailers it observed. While this matter requires further investigation, the FPMI provisionally found that retailers – specifically Woolworths, Shoprite, Spar, Food Lover's Market, and Pick n Pay – should display both a per unit price as well as a per gram or per kilogram price on various fresh produce.

Additionally, the FPMI noted that the national retail market is highly

concentrated among the top four retailers. Therefore, it recommends that the Department of Trade, Industry and Competition (DTIC) establishes a fund to assist new entrants in the retailing of fresh fruits and vegetables in shopping centres.

### Input market dynamics

The FPMI also focussed on fertilisers, seed, and agrochemicals. Regarding fertiliser, the FPMI confirmed that South Africa is a net importer, making disruptions in the global supply chain particularly harmful to fresh food producers. Although it can take four to six months for South African prices to adjust, the country clearly follows international fertiliser trends.

The FPMI therefore recommended that the DTIC implements measures to support the local fertiliser industry where domestic capability does exist. Jacobs says the industry will welcome such a move with open arms.

In terms of agrochemicals, the team found that Bayer's distribution agreements distorted competition. The FPMI suggested that Bayer removes the territorial limitation clauses from their distribution agreements.

The FPMI observed that the markups for seeds supplied by Starke Ayres, particularly cabbage, tomatoes and spinach, are high. These are commodities in which Starke Ayers holds a relatively high market share. The commission suggested that Starke Ayers reduces the markups on its cabbage, spinach, and tomato seeds to align with the average markups of its entire seeds category.

### Government institutions

Several industry organisations have withdrawn funding from the Agricultural Research Council's (ARC) gene banks, which concerns the FPMI. The gene banks are essential for conserving and managing genes or plant genotypes for current and future use. Over time this funding withdrawal will impact the ARC's ability to deliver on its mandate. Therefore, the FPMI recommended that the Department of Agriculture ensures funding for the ARC to maintain its gene bank.

"We fully support the idea that the department should support the ARC in terms of funding and collaboration in this regard," says Jacobs.

### Expired plant breeders rights

The FPMI examined the usage of plant breeders' rights (PBR) in respect of Simba, a subsidiary of PepsiCo. The FPMI noted an apparent strategy by Simba, which develops its own varieties, to discontinue the use of a closed variety before the expiry of its PBR.

However, Simba denied this when the commission confronted it. The FPMI considered Simba's submission but remains unconvinced, particularly because there is no access to this cultivar even if producers try to obtain it.

Therefore, the FPMI suggested that Simba makes its potato variety FL2006 gene material available to the ARC for preservation and ensure that it is available to any member of the public. Furthermore, the Department of Agriculture should consider measures to open access to this potato variety.

### Quality standards as barriers

The inquiry team observed numerous quality and food safety standards that apply to fresh produce producers. These standards range from legislated to voluntary and mandatory requirements set by retailers. Some of these standards, which are widely adopted by large producers, are difficult and expensive to comply with, raising concerns regarding market access, particularly for SME and HDP producers.

The FPMI compared the various standards, focussing on good agricultural practices (GAP standards). They noted that formal retailers apply the top two tiers of the GAP standards: the intermediate level (with 128 requirements) and Global GAP (with 190 requirements) as supply requirements.

However, the FPMI found that the mandatory use of Global GAP distorts competition for SME and HDP producers by raising and

enforcing barriers to entry. This finding does not imply that the FPMI opposes high food safety standards and good agricultural practices, but rather that such standards should be applied judiciously, considering SME and HDP producers.


The commission therefore suggested that retailers expand their existing supplier development programmes, which already focus on allowing SME/HDP access in line with the commitments of the Agriculture and Agro-processing Master Plan.

### Access to finance

The FPMI expressed concern regarding the financial challenges experienced by the Land Bank and how the gap in agricultural funding is being filled by the commercial banks. After examining several aspects of funding, the FPMI suggested that the Department of Agriculture, Land Bank and commercial banks collaborate to fast-track and accelerate the implementation of the blended finance scheme.

### Access to water

The FPMI noted the tension between water being a scarce resource in South Africa, requiring strict regulation, and the resultant challenges in accessing water resources. They reviewed the regulatory requirements and process to obtain a water license, noting that a technical assessment study is required for certain applications. This requirement makes it more challenging for SME and HDP producers to secure water licenses due to the cost of these assessments.

The FPMI emphasised the importance of the Department of Water and Sanitation (DWS) continuing its efforts to streamline the licensing regime, including during the pre-application phase. Jacobs wholeheartedly agrees with this statement. "Yes, please DWS! This will be of great help to the industry." 

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