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Department:  
Trade, Industry and Competition  
REPUBLIC OF SOUTH AFRICA

## THE NATIONAL ASSEMBLY

### QUESTION FOR WRITTEN REPLY

#### QUESTION NO. 2978

#### **MP FJ Mulder (FF Plus) to ask the Minister of Trade, Industry and Competition:**

- (1) What measures does his department have in place to prevent an international provider of digital services, such as Google and/or Facebook, from acquiring companies internationally and then bundling their products together in the local South African economy;
- (2) whether the Competition Commission, using the Facebook acquisition of WhatsApp as an example, has insisted that WhatsApp continues to operate independently from Facebook in the South African market, considering that neither product originated in the Republic; if not, what is the position in this regard; if so, what are the relevant details;
- (3) what is the approach to Amazon, given all the infrastructure and jobs that Amazon has been building in the Republic and which it can easily withdraw if the Competition Commission is persistent in this regard? [NW3812E]

#### **REPLY**

The Competition Commission of South Africa is empowered by the Competition Act (the Act) to review mergers and acquisitions in South Africa where an acquiring establishes control over an acquisition target. The Act requires the Commission to determine whether or not the merger is likely to have an anti-competitive effect, including whether or not the merger will result in the removal of an effective competitor. In addition, the Commission must assess whether or not the merger can be justified on substantial public interest grounds, by assessing the impact of the merger on (i) a particular industrial sector or region; (ii) employment; (iii) the ability of small and medium businesses, or firms

controlled or owned by historically disadvantaged persons, to effectively enter into, participate in and or expand within the market; (iv) the ability of national industries to compete in international markets; and (v) the promotion of a greater spread of ownership, in particular to increase the levels of ownership by historically disadvantaged persons and workers in firms in the market. The provisions of the Act would apply to acquisitions by firms such as Google and/or Facebook where they acquire control of a target firm and where the transaction meets the thresholds set out in the legislation.

The Facebook/ WhatsApp transaction took place in 2015. I am advised that the transaction was not notifiable because WhatsApp did not generate any revenue in South Africa, meaning that the transaction did not meet the South African merger notification thresholds. However, both locally and globally, competition authorities have reconsidered the approach of competition authorities to regulating digital markets.

I am advised that the Competition Commission does not have any active cases against Amazon.

In general terms, over the last decade South Africa has played a global thought leader role in how to balance competition and public interest considerations in order to promote foreign investment whilst ensuring that mergers safeguard and promote jobs, localisation, and other dimensions of our public interest and our economic policy.

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