

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5845

7 February 2025



competitioncommission
south africa

**PUBLICATION OF DRAFT GUIDELINES ON THE COMMISSION'S HANDLING OF
CONFIDENTIAL INFORMATION IN TERMS OF THE COMPETITION ACT 89 OF
1998 (AS AMENDED)**

3 February 2025

1. BACKGROUND

1.1. The Competition Commission hereby, in terms of section 79(1) of the Competition Act No. 89 of 1998 (as amended) ("the Act"), which allows the Competition Commission to prepare guidelines to indicate its policy approach on any matter falling within its jurisdiction, issues these draft guidelines on the Commission's handling of confidential information in terms of the Competition Act, for public comment. Therefore, notice is hereby given that the Commission has published the Draft Guidelines on the Commission's handling of confidential information on its website.

1.2. The Commission identified a need to provide guidance on the process for claiming information as confidential; as well as to provide guidance on the

Commission's appraisal and treatment of confidential information submitted to it. These Guidelines aim to guide merger parties, complainants, respondents, market inquiry applicants, exemption applicants and third parties on the Commission's approach to handling of confidential information. Further these Guidelines clarify how the Commission will ensure a fair process is followed without resulting in undue delay of the main proceedings in its approaches to claims of confidentiality and its handling of confidential information.

- 1.3. The primary objective of these Guidelines is to provide any party claiming confidentiality over its information with guidance on (i) how to do so effectively, (ii) how the Commission will assess such claims for confidentiality, (iii) how regimes of access to confidential information work, and (iv) what rights a claimant has to challenge a Commission decision on the determinations of confidentiality of information submitted and decisions relating to access to information determined to be confidential. These Guidelines also detail, for those seeking access to confidential information, the legal principles applicable to applications for access.

2. INVITATION TO COMMENT

The public is invited to submit comments on these draft guidelines by 16h30 on 3 March 2025. Written submissions can be sent via email to MpumiT@compcom.co.za . All submissions will be reviewed, and a final guideline published by the Commission. The Draft Guidelines are available at <https://www.compcom.co.za/wp-content/uploads/2025/01/DRAFT-Confidentiality-Guidelines-for-Public-Comment-03022025.pdf> .