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**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/6/19/2014

Decision¹ of the Tenth Meeting of the Committee of Initial Determination on the Notification of the Acquisition by Africell Holding SAL of Orange Uganda Limited.

Economic Sector: Mobile Telecommunications

7th August, 2014 – Lilongwe, Malawi

¹ In the published version of this decision, some information has been omitted pursuant to Rule 73 of the COMESA Competition Rules concerning non-disclosure of business secrets and other confidential information. Where possible the information omitted has been replaced by ranges of figures or a general description.

Information and Relevant Background

1. On 16th June, 2014, the COMESA Competition Commission ('the Commission') received an application for approval of a transaction involving the proposed acquisition by **Africell Holding SAL** ("**Africell**") of the controlling interest in Orange Uganda Limited ("OUL").
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations ('the Regulations'). The primary concern of the Commission with regard to transactions of this nature is whether the proposed transaction between the parties would, or is likely to have the effect of substantially preventing or lessening competition; or would be contrary to public interest in the Common Market pursuant to Article 26 of the Regulations.
3. The parties submitted that the transaction in respect of which approval is sought from the Commission is the acquisition by Africell of controlling interest in OUL.
4. The Committee of Initial Determination ("CID") observed that the target firm operates in two or more COMESA Member States. This, therefore, means that the regional dimension requirements under Articles 23(3) and 23(5) of the Regulations are satisfied and ultimately asserts jurisdiction of the Commission to assess the transaction.

The Parties

Africell Holding SAL

5. The acquiring firm, Africell Holdings SAL, has its principal address at Al Borj Bldg. - An Nahar, Al Borj Square, Downtown Beirut, Lebanon. It is part of the Lebanon based Lintel Holdings SAL and owns operations in the Democratic Republic of Congo, Gambia and Sierra Leone. Africell is involved in the provision of mobile network services across its 2G and 3G spectrum. In the Common Market, Africell operates in DRC.

Orange Uganda Limited

6. Orange Uganda Limited has its principal address at Clement Hill Road, Plot 28-30, Kampala, Uganda. OUL is controlled by Atlas Services Belgium (“Atlas”) which is a company incorporated under the Laws of Belgium. Atlas whose principal address is at 3 Avenue du Bourget, 1140 Brussels, Belgium, is part of the Orange Group, the parent company of which is Orange S.A. formally France Telecom S.A. whose registered office is at 78 rue Olivier de Serres, 75015 Paris, France. Orange S.A. is a publicly traded company whose shares are listed on NYSE Euronext. In the Common Market, Orange S.A operates in DRC, Egypt, Kenya, Madagascar, Mauritius and Uganda.

Competition Analysis

7. The CID noted that the relevant product market is the provision of mobile network services which includes both voice and data services such as voice and video calling, text messaging, e-mail and internet services, etc.
8. The CID noted that much as the parties to the transaction offer similar products to the consumers, the two undertakings face different competitors and have different customers depending on the national jurisdiction in which they operate hence the geographic market for the supply of mobile network services is national.
9. The CID, therefore, concluded that the proposed transaction will not raise significant competition concerns in the Common Market considering that the market share of the parties in the Common Market is minimal and the market itself is highly dynamic and contestable. The CID further noted that given the low market shares of the parties and the contestability of the market, the transaction is not likely to prevent, restrict or distort competition within the Common Market.

Determination

10. For the above reasons, the CID determined that the acquisition of OUL by Africell is not likely to substantially prevent or lessen competition and it will not be contrary to public interest. The CID further determined that the

transaction does not negate the single market objective. The transaction is, therefore, approved without conditions.

11. This decision is adopted in application of Article 26 of the Regulations.

Dated this 7th day of August, 2014.

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Commissioner Alexander Kububa (Chairman)

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Commissioner Daniel Gappy

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Commissioner Thabisile Langa