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JOINT PRESS STATEMENT

COMMEMORATION OF THE 2022 WORLD COMPETITION DAY

The COMESA Competition Commission ('CCC') and the Competition and Consumer Protection Commission ('CCPC') today joins the rest of the world in commemorating World Competition Day under the theme "**Competition Policy and Climate Change**".

The theme is timely as climate change has led to shifts in weather patterns and leaders around the world urgently want to tackle this problem. The CCC and CCPC are cognizant of the fact that climate change is one global problem and that international legally binding treaties like the Paris Agreement have raised concern with a goal of limiting global warming to 1.5 degrees Celsius compared to pre-industrial levels. In order to achieve this temperature goal, countries have to reach global peaking of greenhouse gas emissions as soon as possible to achieve a climate neutral world by 2050. It has generally been agreed that the implementation of the Paris Agreement requires economic and social transformation based on the best available science. There is urgent need to fully realise technological development and transfer for both improving resilience to climate change and reducing Green House Gas (GHG) emissions. Subsequent conference of parties' meetings, COP 26 and COP 27; have been held to equally addressing the problem of climate change.

With the urgent need to tackle climate change, comes the urgent need for all stakeholders to play their role. The purpose of the COMESA Competition Regulations of 2004 ('the Regulations') is to promote fair markets that support the natural progression of competition and facilitate trade in the Common Market thereby enhancing the welfare of consumers. The purpose of the Competition and Consumer Protection Act No. 24 of 2010 (CCPA) is to safeguard competition and ensure consumer welfare. The enforcement of the Regulations and the CCPA are subject to other challenges which can undermine competition and consumer welfare. One of these challenges is climate change.

There is, therefore, urgent need to tackle climate change which if not addressed will adversely affect businesses and the welfare of consumers. The consequences of climate

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change are evident in some Member States, where droughts have resulted in poor harvests and subsequently high prices of food and in some cases, companies operating in those sectors exiting the markets. It is therefore important that Competition Authorities play their role in tackling this global problem.

The provisions of the Regulations and the CCPA provide both Authorities with powers to consider such global challenges in assessing anti-competitive business practices and mergers. Article 16(4) of the Regulations allows the CCC to permit *“Agreements by undertakings, decisions by association of undertakings and concerted practice which contribute to improving the production or distribution of goods or promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit and which do not: impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objective and; afford such undertakings the possibility of eliminating competition in respect of a substantial market for the goods or services in question”*..

Similarly, Section 14 of the CCPA mandates the CCPC to also review vertical and horizontal agreements between parties. The CCPC can also grant exemptions under Section 18 of the CCPA for parties to enter into agreements which promote technical or economic progress in the production, distribution or provision of goods and services. The CCC and CCPC can therefore authorize agreements which promote environmental sustainability. These agreements may include those involving joint research and development on green technologies for competitors, agreements that promote economic progress, environmental protection and green products which are necessary to tackle climate change.

In merger analysis, both CCC and CCPC take into account public interest considerations in form of efficiencies. While both authorities consider the likelihood of the merged entity to substantially lessen competition, they also consider the resulting efficiencies that could outweigh the substantial lessening of competition. This includes the likelihood of a merger leading to the introduction of new or improved products or new processes for the benefit of consumers, even if they do not immediately and directly affect price.

The CCC and CCPC also consider the ability of the merged entity to conduct research and development more effectively and is cognizant that such efficiencies may spur innovation which often generates significant benefits for consumers. The efficiency considerations in merger analysis are in line with the need to tackle climate change as they support the introduction of new production processes, improved products and innovation. The CCC and CCPC are also cognizant that such efficiencies may not lead to immediate reduction in prices of products as is the case for green products which may cost more to produce due to the need to invest in new technologies and obtain raw

materials from more environmentally sustainable sources. However, consumers still benefit from improved products which lower greenhouse gases and a better environment.

The CCC and CCPC are also cognizant that some businesses may take advantage of the consequences of climate change to engage in anti-competitive conduct and exploit consumers. The CCC and CCPC are alert so that they identify any such conduct and to ensure they are adequately addressed.

The CCC and CCPC will continue working closely with all relevant stakeholders in addressing the challenges resulting from climate change to enhance the welfare of consumers in the Common Market. Both institutions shall therefore continue to play an active role in ensuring that their efforts and policies are cognizant of the important role competition enforcement may play to not only create climate resilient economies but also to contribute to the achievement of a climate neutral planet. These combined efforts by all stakeholders among them competition authorities do not only benefit the current generations but also future generations who are more at risk and vulnerable to the effects of climate change.



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