



COMESA Competition Commission

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**Common Market for Eastern
and Southern Africa**

ACBP NOTICE OF INVESTIGATION 3 OF 2022

16 June 2022

**NOTICE OF COMMENCEMENT OF INVESTIGATIONS INTO ALLEGED
TERRITORIAL RESTRICTION AND RESALE PRICE MAINTENANCE BY TOYOTA
TSUSHO CORPORATION**

Notice is hereby given to interested stakeholders and the general public that pursuant to Article 22 of the COMESA Competition Regulations ("**the Regulations**"), the COMESA Competition Commission (the "**Commission**") has commenced investigations into potential violations of Article 16 of the Regulations by Toyota Tsusho Corporation ("Toyota") operating in the Common Market.

Article 16 of the Regulations prohibits all agreements which may affect trade between Member States and have as their object or effect the prevention, restriction or distortion of competition in the Common Market.

The Commission is aware that Toyota has appointed agents as authorised distributors in various countries in the Common Market and has concluded distribution agreements with them for the sale of Toyota products, specifically; brand new vehicles and spare parts. The Commission has reasonable cause to suspect, and does suspect, that the distribution agreements do not allow authorised distributors to sell Toyota products outside their respective territories or countries, or sell Toyota products to any third party whom they believe will sell, export or transfer directly or indirectly to any place or country outside their territory. Furthermore, the Commission has reasonable cause to suspect, and does suspect, that Toyota has provided price guidelines to its authorised distributors for the pricing of the Toyota products sold to consumers in the Common Market which may contravene the provisions of the Regulations pertaining to resale price maintenance.

The Commission has preliminary concerns that Toyota may be prohibiting out-of-territory passive sales to the detriment of consumers and may also be maintaining high prices of brand new vehicles and spare parts in the Common Market. As such, the Commission will assess the conduct of Toyota to determine its effect in the Common Market and apply appropriate measures as per the Regulations.

It should be noted that the commencement of investigations neither presupposes that the conduct being investigated is anti-competitive nor that Toyota has violated the Regulations. The Commission will, in accordance with the provisions of Part 3 of the Regulations, conduct an inquiry to determine whether the alleged conduct has as its object or effect the prevention, restriction or distortion of competition in the Common Market or in a substantial part of it.

The Commission hereby invites all interested stakeholders to submit representations by 30 July 2022. If you wish to make any representations or seek further details and/or clarifications, you may contact our **Ms. Siboniselizulu Maseko, Senior Analyst Enforcement and Exemptions** on Tel: +265 (0) 1 772 466 or E-mail: SMaseko@comesa.int.

All representations submitted to the Commission will be treated with the strictest confidentiality and will only be used for the purposes of this investigation.

A handwritten signature in black ink, appearing to be 'W. Mwemba', written over a circular stamp or seal.

Dr. Willard Mwemba
Director & Chief Executive Officer