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**Common Market for Eastern
and Southern Africa**

Staff Paper No. 2018/03/JB/07

Decision¹ of the Thirty Ninth Committee Responsible for Initial Determination on the Application for Authorisation of the Acquisition of Copperbelt Energy Corporation Plc by Zambian Transmission LLP

ECONOMIC SECTOR: Energy

18th March 2018 – Johannesburg, South Africa

¹ In the published version of this decision, some information may have 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 Where possible, the information omitted has been replaced by ranges of figures or a general description.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 9th February 2018, the COMESA Competition Commission (hereinafter referred to as "the Commission") received an application for authorisation of a merger between Copperbelt Energy Corporation Plc (hereinafter referred to as "CEC") and Zambian Transmission LLP (hereinafter referred to as "Zambian Transmission").
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations, 2004 (hereinafter referred to as the "Regulations"). Pursuant to Article 26 of the Regulations, the Commission is required to assess 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.
3. The Committee Responsible for Initial Determination (hereinafter referred to as "the CID") established that the parties operate in more than one COMESA Member State. This therefore means that the regional dimension requirement under Article 23(3) of the Regulations is satisfied and asserts jurisdiction on the Commission to assess the transaction.

The Parties

Zambian Transmission (the Acquirer)

4. Zambian Transmission is a company incorporated in the United Kingdom. It is controlled by the Common Wealth Development Corporation Group Plc (hereinafter referred to as "CDC"), the UK's development finance institution, which is wholly owned by the UK Government Department for International Development. Zambian Transmission is a special purpose vehicle created for the purpose of making the public offer and does not carry out any activity, nor control any firm prior to the proposed transaction.

CEC (the Target)

5. CEC is a public company incorporated in accordance with the laws of Zambia, whose ordinary shares are listed on the Lusaka Stock Exchange. CEC is only active in the Democratic Republic of Congo

("DRC") and Zambia. CEC's primary activities involve the transmission of electricity in Zambia and into the DRC. Additionally, CEC provides internet access through its joint-venture, CEC Liquid Telecom, and its wholly owned subsidiary, Hai.

Nature of the Transaction

6. The proposed transaction will be implemented by means of a public offer by Zambian Transmission for all of the ordinary shares of CEC as contemplated by clause 1 of the Third Schedule of the Securities (Takeovers and Mergers) Rules Statutory Instrument No 170 of 1993 (the "Takeover Rules") of Zambia.
7. In accordance with the Takeover Rules, the public offer is conditional upon valid acceptances being received which would result in Zambian Transmission, together with persons acting in concert with it, holding voting rights in respect of more than 50% of the shares in CEC. Following the offer becoming unconditional in all respects, and completion of the proposed transaction, CDC will be the only entity with the ability to exercise control over CEC.

Competition Analysis

8. The CID defined the relevant markets as:
 - a) the market for the wholesale and retail transmission of electricity;
 - b) the wholesale market for the provision of internet access services and capacity services; and
 - c) the retail market for the provision of internet access
9. The CID observed that the merger does not raise foreclosure concerns, and that it is unlikely that the merger will result in an appreciable effect on trade between Member States

Determination

10. The CID determined that the merger is not likely to substantially lessen competition in the Common Market and is compatible with the COMESA Treaty objective of full market integration. The CID therefore approved the transaction.

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

Dated this 18th March 2018



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Commissioner Thabisile Langa
(Chairperson)



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Commissioner Patrick Okilangole
(Member)



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Commissioner Chilufya Sampa
(Member)