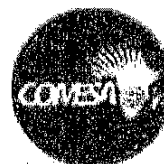




COMESA Competition Commission
Kang'ombe House, 5th Floor-West Wing
P O Box 30742
Lilongwe 3, Malawi
Tel. +265 1 772 466
Email: compcom@comesa.int



Common Market for
Eastern and Southern Africa

Staff Paper No. 2018/12/RR/11

**Decision¹ of the Fiftieth (50th) Committee Responsible for Initial
Determination on the Application for Authorisation of the Proposed
Acquisition of KenolKobil Plc by Rubis Énergie SAS**

ECONOMIC SECTOR: Petroleum

07th December 2018

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

BMJ

u V. T.P.D

Introduction and Relevant Background

1. On 14th November 2018, the COMESA Competition Commission (the "Commission") received a notification for approval of a merger from Rubis Énergie SAS ("Rubis") as the acquiring firm, and KenolKobil Plc ("KenolKobil") as the target firm, pursuant to Article 24(1) of the COMESA Competition Regulations (the "Regulations").
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 and they meet the prescribed notification thresholds. 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.

Rubis (the Acquirer)

4. The acquiring undertaking, Rubis, is a corporation organised and existing under the Laws of France (registered as number 552 048 811) and whose address is Tour Franklin - 100, terrasse Boieldieu - 92800 Puteaux, France. Rubis covers the distribution of all petroleum products, liquid petroleum gas ("LPG") and bitumen across 3 geographic areas: Europe, the Caribbean and Africa.
5. In the Common Market for Eastern and Southern Africa (the "Common Market"), Rubis distributes petroleum products, including through a network of services stations, in Madagascar and Djibouti, and LPG (cylinders and bulk) in Madagascar, Eswatini and Comoros.

KenolKobil (the Target)

6. The parties have submitted that the target undertaking, KenolKobil, is a company incorporated in Kenya. The KenolKobil Group is an indigenous Kenyan oil marketing conglomerate that markets petroleum products in the downstream market and trades in refined petroleum products which include motor fuels, industrial oils, LPG, aviation fuels, lubricants and various other specialist oils.
7. In the Common Market, the KenolKobil Group is, in particular, active in the resale of LPG (in cylinders) in Burundi, Ethiopia, Kenya, Rwanda, Uganda and Zambia as well as retail sale of petroleum in Burundi, Ethiopia, Kenya, Rwanda, Uganda and Zambia.

B.M.C. nDe. T.P.D

Nature of the Transaction

8. terms of the notified transaction, Rubis has issued a notice of its intention to acquire one hundred percent (100%) of the ordinary shares in the share capital of KenolKobil (the "Proposed Transaction"). Rubis already holds 24.99% of KenolKobil's issued share capital.

Competition Analysis

9. The CID defined the relevant product and geographic markets as follows:
- a) National markets for wholesale supply of bulk and cylinder LPG;
 - b) National markets for retail supply of bulk and cylinder LPG;
 - c) National markets for retail supply of automotive fuels;
 - d) National markets for wholesale supply of automotive fuels;
 - e) National markets for supply of jet fuel; and
 - f) Supply of automotive lubricants and industrial lubricants in the Common Market.
-
10. The CID considered that the merging parties' post-merger combined market shares are unlikely to raise significant competition concerns and will not materially alter the competitive structure of the relevant markets.

Determination

11. The CID determined that the merger is not likely to lessen competition in the Common Market and/or negatively affect trade between Member States.
12. The CID therefore approved the transaction unconditionally.
13. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 7th of December 2018



Commissioner Patrick Okilangole (Chairperson)



Commissioner Brian Lingela
(Member)



Commissioner Thembelihle Dube
(Member)