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Common Market for Eastern and Southern Africa

Case File No. CCC/MER/04/14/2019

Decision[1] of the Fifty-Ninth (59th) Committee Responsible for Initial Determination Regarding the Proposed Merger involving TPG Global LLC and Abraaj Healthcare Group Hospitals Limited

ECONOMIC SECTOR: Healthcare

30th July 2019

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

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Information and Relevant Background

1. On 16th May 2019, the COMESA Competition Commission (hereinafter referred to as the "**Commission**") received a notification for approval of a merger involving TPG Global LLC ("**TPG**") and Abraaj Healthcare Group Hospitals Limited ("**Abraaj Healthcare**").

2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations, 2004 (the "**Regulations**"). Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the 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 (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.

The Parties

TPG (the Acquirer)

4. It was submitted that TPG is a private investment firm based in the United States, that manages a family of funds that invest in a variety of companies through acquisition and corporate restructuring. In the Common Market, TPG holds interests in companies operating in Egypt, Kenya, Malawi, Uganda, Zambia, and Zimbabwe.

Abraaj Healthcare (the Target)

5. It was submitted that Abraaj Healthcare is a company incorporated under the laws of Cayman Islands. Abraaj Healthcare owns subsidiaries that provide healthcare services by way of various hospitals and medical clinics throughout Kenya.

Nature of the Transaction

6. The parties have submitted that the notified transaction involves TPG, through one or more of its affiliates, investing in certain assets indirectly owned by the Abraaj Growth Markets Health Fund L.P. (Cayman Exempted LP) and Abraaj Growth Markets Health Fund (B) L.P. (the "**Proposed Transaction**").

Competition Analysis

7. The CID defined the relevant markets as follows:

   a) Provision of in-patient hospital services in Nairobi and Kisumu;
   b) Provision of out-patient hospital services in Nairobi and Kisumu;
   c) Provision of homecare services in Nairobi and Kisumu; and
   d) Supply of upstream transfusion and transplantation diagnostic instruments at global level.

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8. The CID observed that the transaction is not likely to raise significant competition concerns due to the absence of horizontal overlaps in the activities of the merging parties pre-merger. The CID also observed that the relevant markets are characterised by the presence of strong competitors which will continue to give competitive pressure to the merging parties.

Determination

9. The CID determined that the merger is not likely to substantially lessen or prevent competition in the Common Market or any substantial part of it. Consequently, the transaction is not likely to negatively affect trade between Member States. The CID therefore approved the transaction.

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

Dated this 30th day of July, 2019

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Commissioner Patrick Okilangole (Chairperson)

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Commissioner Brian M. Lingela **Commissioner Thembelihle P. Dube Nee Dlamini**