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Common Market for Eastern and Southern Africa

Case File No. CCC/MER/06/30/2022

Decision[1] of the Eighty-Sixth (86th) Committee Responsible for Initial Determinations Regarding the Proposed Acquisition by Mambo Retail Ltd of Naivas International

ECONOMIC SECTOR: Retail

27 September 2022

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

The Committee Responsible for Initial Determinations,

Cognisant of Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa (the "**COMESA Treaty**");

Having regard to the COMESA Competition Regulations of 2004 (the "**Regulations**"), and in particular Part 4 thereof;

Mindful of the COMESA Competition Rules of 2004, as amended by the COMESA Competition [Amendment] Rules, 2014 (the "**Rules**");

Conscious of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation of 2015;

Recalling the overriding need to establish a Common Market;

Recognising that anti-competitive mergers may constitute an obstacle to the achievement of economic growth, trade liberalization and economic efficiency in the COMESA Member States;

Considering that the continued growth in regionalization of business activities correspondingly increases the likelihood that anti-competitive mergers in one Member State may adversely affect competition in another Member State,

Desirability of the overriding COMESA Treaty objective of strengthening and achieving convergence of COMESA Member States' economies through the attainment of full market integration,

Having regard to the COMESA Merger Assessment Guidelines of 2014,

Determines as follows:

Introduction and Relevant Background

1. On 30 June 2022, the COMESA Competition Commission (the "**Commission**") received a notification of a merger involving Mambo Retail Ltd ("**Mambo Retail**") as the acquiring undertaking and Naivas International ("**Naivas**") as the target undertaking, pursuant to Article 24(1) of the COMESA Competition Regulations of 2004 (the "**Regulations**").

2. 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. Pursuant to Article 13(4) of the Regulations, there is established a Committee Responsible for Initial Determinations, referred to as the CID. The decision of the CID is set out below.

The Parties

Mambo Retail (the acquiring undertaking)

4. Mambo Retail is a special purpose vehicle which was incorporated on 16 June 2022 in accordance with the laws of Mauritius. It will be jointly controlled by IBL Ltd ("**IBL**"), Société de Promotion et de Participation pour la Coopération Economique ("**Proparco**") and Deutsche Investitions und Entwicklungsgesellschaft mBH ("**DEG**"), together the "**Acquiring Group**".

5. IBL is one of the largest conglomerate public companies incorporated in Mauritius and listed on the Stock Exchange of Mauritius. It is a world class diversified group based in Mauritius and active in 19 countries worldwide. IBL, its subsidiaries, and controlled undertakings are together referred to as the IBL Group. The IBL Group works and invests in over 280 companies grouped in 9 operating clusters globally namely: agro and energy; building and engineering; commercial and distribution; financial services; hospitality and services; life and technologies; logistics; seafood; and property. Within the Common Market the IBL Group operates in Comoros, Kenya, Madagascar, Mauritius, Seychelles and Uganda.

6. DEG is a development finance institution incorporated under the laws of Germany, wholly owned by Kreditanstalt für Wiederaufbau ("**KfW**"), which provides banking and advisory services as well as financing to private enterprises in developing countries. DEG, KfW and all entities under common control of DEG are together referred to as the **DEG Group**. The DEG Group does not make any direct sales or hold direct assets in, into or from the Common Market but it provides financing to entities operating in the Common Market.

7. Proparco is a development finance institution incorporated under the laws of France. Proparco is controlled by Agence Française de Développement ("**AFD**") which is in turn controlled by the Government of the Republic of France. Proparco, AFD and entities under common control or controlled by them are together referred to as the **Proparco Group**. The Proparco Group through its portfolio companies, is active in Comoros, Democratic Republic of Congo (the "**DRC**"), Djibouti, Egypt, Kenya, Madagascar, Mauritius, Tunisia and Uganda.

Naivas (the target undertaking)

8. Naivas is an investment holding company incorporated on 16 October 2015 under the laws of Mauritius. It wholly owns Naivas Limited ("**Naivas Kenya**"), a grocery retail company incorporated under the laws of Kenya.

9. Naivas Kenya is a leading supermarket chain in Kenya with over 80 stores spread across Kenya. Naivas Kenya operates retail supermarkets in the following regions in Kenya: Nairobi, Nakuru, Embu, Machakos, Naivasha, Narok, Kisii, Uasin Gishu, Mombasa, Thika, Garissa, Kisumu, Nyeri, Bungoma, Kapsabet, Kericho, Kajiado.

10. Naivas Kenya controls (as to 75%) Monvid Insurance Agency Limited ("**Monvid**"), which is an insurance agency that was incorporated under the laws of Kenya on 12 June 2014 and which sells and distributes insurance policies and products to customers in Kenya only (with its main customer being Naivas Kenya i.e., more than 70% of Monvid's sales are from Naivas Kenya).

11. Within the Common Market, Naivas operates in Mauritius while Naivas Kenya and Monvid operate only in Kenya.

Jurisdiction of the Commission

12. Article 24(1) of the Regulations requires 'notifiable mergers' to be notified to the Commission. Rule 4 of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation (the "**Merger Notification Thresholds Rules**") provides that:

    Any merger, where both the acquiring firm and the target firm, or either the acquiring firm or the target firm, operate in two or more Member States, shall be notifiable if:

    a) the combined annual turnover or combined value of assets, whichever is higher, in the Common Market of all parties to a merger equals or exceeds USD 50 million; and

    b) the annual turnover or value of assets, whichever is higher, in the Common Market of each of at least two of the parties to a merger equals or exceeds USD 10 million,

    unless each of the parties to a merger achieves at least two-thirds of its aggregate turnover or assets in the Common Market within one and the same Member State.

13. The undertakings concerned have operations in two or more Member States. The parties' combined asset in the Common Market exceeds the threshold of USD 50 million and they each hold asset value of more than USD 10 million in the Common Market. In addition, the merging parties do not hold more than two-thirds of their respective COMESA-wide asset values within one and the same Member State. The notified transaction is, therefore, notifiable to the Commission within the meaning of Article 23(5)(a) of the Regulations.

Details of the Merger

14. The notified transaction involves the acquisition of control of Naivas by Mambo Retail where Mambo Retail will acquire up to 40% of the share capital (with certain controlling rights) in Naivas.

Competition Assessment

Relevant Product Markets

15. The CID noted that both the acquiring and target group operate in the retail and insurance sectors. The CID further noted that the accurate identification of a relevant product market is essential in any competition case assessment since it helps, inter alia, to identify competitors which can constrain the merged entity's behaviour on the market. Therefore, the relevant product market assessment focused on the retail/supermarket and insurance sectors as these are the apparent sectors where both parties are active and where the competition concerns may arise.

Operation of retail supermarkets

16. A supermarket can be defined as any full-line retail grocery store where customers can purchase a substantial part of their weekly food and grocery shopping requirements in a single shopping visit. A supermarket offers a range of product categories which include bread and baked goods; dairy products; refrigerated food and beverage products; frozen food and beverage products; fresh and prepared meats and poultry; fresh fruits and vegetables; shelf stable food and beverage products including canned, jarred, bottled, boxed, and other types of packaged products; staple foodstuffs, which may include salt, sugar, flour, sauces, spices, coffee, tea, and other staples.

17. A supermarket is also known to offer other non-food grocery products such as soaps, detergents, paper goods, other household products, and health and beauty aids; pharmaceutical products and pharmacy services; and wine, beer, and/or distilled spirits as the law may permit.

18. From the foregoing, the CID noted that a supermarket does not offer a single specialised product but rather a range of products comprising both food and non-food items. Thus, a customer that visits a supermarket is likely to benefit from purchasing a selection of groceries from a single visit. It is common knowledge that the groceries that a supermarket stocks may also be purchased from other retail shops such as convenient shops at service stations, specialized shops, small tucks shops, or informal markets. For instance, a customer that wishes to buy bread, pastry and other confectionaries may visit a bakery instead of a supermarket. Similarly, a customer wishing to buy meat and meat products may visit a butchery which is only specialised in selling meat and meat products. Similarly, a fruit and vegetable market may offer an alternative to customers that wish to purchase fruits and vegetables. Therefore, the CID considered that from demand perspective supermarkets compete with specialised shops, convenient shops at service stations or informal markets as such may comprise the same market. However, the CID noted that customers tend not prefer supermarkets since the prices at supermarkets are often lower than at convenient stores or filling stations. Further, while prices may be lower at informal

markets compared to supermarkets, hygiene matters and convenience may result in the affluent customers preferring supermarkets as opposed to informal markets.

19. The CID observed that from a supply perspective, supermarkets have unique features distinct from the other shops. For instance, the products stocked by a supermarket form a basket of daily consumer goods and their unique distribution model allows consumers to purchase majority of their household necessities in a one-stop-shop fashion which advantages customers by minimising movement. This model would not apply in a specialised store such as a butchery or a convenient shop at a filing station which mainly seek to offer customers limited items which they could have forgotten to purchase. Further, most supermarkets are also designed to cater for customer conveniences such as parking facilities and trolleys hence attractive to customers.

20. The CID further observed that supermarkets may compete with hypermarkets and discounters. The CID noted that while hypermarkets, supermarkets and discounters can all be categorised under modern distribution channels for retail consumer goods, they may be distinguished. The CID noted that hypermarkets and discounters tend to sell their products and services at discounted rates as opposed to supermarkets which sell products at market rates. Further, the business model of supermarkets is to increase profits by encouraging more customer spending on their products through professional marketing while hypermarkets and discounters tend to encourage customer saving by buying goods at discounted rates. The CID considered that substitution is likely to occur between hypermarkets, supermarkets and discounters given the similarity in the manner the goods are sold (i.e., variety of consumer products under one roof) which gives a customer the convenience of purchasing goods in a single visit.

21. In this regard, the CID considered that the retail sale of consumer goods by a supermarket or hypermarket can be construed as a distinct market from the retail sale of similar goods sold in other outlets such as at service stations or specialised shops on the grounds that supermarkets/hypermarkets offer a unique service to customers and accord the customers the opportunity to purchase a basket of daily consumer goods in a single goal. In ***Kesko/Tuko***[2], the European Commission ("EC") similarly distinguished the provision of a basket of fresh and dry foodstuffs, and non-food household consumables sold in a supermarket environment from the similar sale in petrol stations, kiosks or specialised stores. The EC noted that petrol stations tend to have smaller selling areas and often stock dry goods. Further, in ***REWE Plus/Discount***[3] the EC identified the retail market for daily consumer goods which

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[2] Case IV/M.784, https://ec.europa.eu/competition/mergers/cases/decisions/m784_19961120_610_en.pdf accessed on 12 August 2022

[3] Case No COMP/M.5112 REWE PLUS / DISCOUNT, accessible at https://ec.europa.eu/competition/mergers/cases/decisions/m5112_20080703_20330_en.pdf

was limited to modern distribution channels which comprised hypermarkets, supermarkets and discounters.

22. **In view of the foregoing, the CID determined the relevant product market as the retail market for consumer goods via supermarkets, hypermarkets and discounters.**

Provision of insurance services

23. Insurance services entails the provision of financial protection (i.e., insurance cover) by an insurance carrier or insurer to individuals, companies or government against the risks of certain specified events occurring. It entails transferring of risk from individuals, companies or government entities to an insurer.

24. Insurance cover can be broadly categorised into non-life insurance and life insurance which are distinct products for competition law purposes. For example, life insurance covers for life-changing events in a person's life, such as death, retirement and disability while non-life insurance entails all types of insurance policies other than life insurance. Further, insurance needs for non-life risks tend to change and are only taken for a fixed period, whereas life insurance is generally for the duration of a person's life. Therefore, the CID considered that life insurance and non-life insurance are not substitutes on account of the different characteristics. The CID noted that another form of insurance category, reinsurance, entails the purchase of insurance coverage by an insurer from one or more other insurance companies as a means of sharing risks. In this case, an insurance company transfers some of the risks incurred to other insurance providers[4]. The CID noted that this mode of insurance coverage only happens between insurers as opposed to cover non-life and life cover which entails an insurer providing cover to individuals or companies.

25. The CID noted that three broader categories of insurance products may be distinguished based on the differences in the mode of services offered and the intended purpose each category is meant to achieve. For instance, life insurance is claimed upon the death of a person and may be seen as an investment in favour of the beneficiaries of the deceased policy holder. To the contrary, most forms of non-life insurance are claimed upon loss or damage of the insured property such as the case under motor vehicle insurance or property insurance. Further, re-insurance is different from life and non-life insurance given that it entails one insurer providing cover to another insurer.

26. In this regard, three sub-markets within the insurance sector can be construed namely, life insurance, non-life insurance and re-insurance which are not likely to be substitutable. This delineation was similarly confirmed in ***Standard Bank/Liberty***

[4] https://www.ati-aca.org/wp-content/uploads/2017/11/ATI-Glossary-Term.pdf, accessed on 25th July 2022.

Holdings[5] where the CID identified separate markets for life insurance and non-life insurance on the basis that the former covers life-changing events in a person's life, such as death, retirement and disability as opposed to the later.

27. The CID noted that while both parties are active in the insurance sector, the Acquiring Group is an insurer which offers its own insurance products under the Activa brand. To the contrary, the Target Group is an intermediary which brokers insurance products on behalf of insurers and such products are not its own products. The CID observed that insurers and insurance brokers are distinguishable from a supply perspective since insurers develop their own products while agents do not develop their own products but only distribute products on behalf of insurers.

28. The CID considered that from a demand perspective, clients have several options to cover for risk, namely accepting risk, avoiding risk, reducing risk, transferring risk via insurers or transferring risk via alternative capital. With respect to transfer of risk via an insurer or alternative capital, a client may either choose to cover its risk directly by approaching an insurer/alternative capital or engaging a broker on a commission basis. In the case of the broker, it would only distribute the insurance cover issued by an insurer and not issue its own cover. It may be argued that insurance brokers/agents compete for the same customers with insurers. However, the preponderance of this occurrence may not be significant due to the time, convenience and other costs that may be involved by the client to engage an insurer directly as opposed to engaging a broker. Further, brokers are specialised in the services they offer and are likely to negotiate better deals for clients as opposed to the client directly engaging an insurer.

29. The CID observed that brokers tend to scan the insurance market for an insurer or a consortium of insurers capable of carrying a client's risks. Further, brokers conduct negotiations with insurers on behalf of their clients to get the best possible rates and conditions. Brokers also provide advisory services on risk management strategies and handling of policy claims to their clients. In this respect, a client is likely to prefer engaging a broker to get the best insurance deal on the market as opposed to directly engaging an insurer which may derail the client from its core business.

30. The CID noted that in ***Marsh & McLennan/Sedgwick***[6]**,** the EC investigation revealed that corporate customers clearly distinguish the types of services they can procure from brokers and those from insurers. The EC's investigation confirmed that large corporate customers considered the activities of brokers as separate from those of insurers, and that they do not consider insurers to compete directly with brokers in the distribution of insurance for large risks. The EC further considered that additional

[5] Decision of the Eighty-First (81st) Committee Responsible for Initial Determination Regarding the Merger involving Standard Bank Group Limited and Liberty Holdings Limited, dated 20 February 2022.
[6] Case No IV/M.1307 - MARSH & McLENNAN /SEDGWICK, https://ec.europa.eu/competition/mergers/cases/decisions/m1307_en.pdf accessed on 14 August 2022

services which an insurance broker provides to a client distinguishes insurance brokering from other insurance distribution channels. The EC concluded that the distribution of insurance via brokers is a separate market from insurance products accessed directly from an insurer.

31. In light of the above, the CID considered that a separate market for the distribution of insurance products may be construed, separate from the provision of insurance products. Further, as highlighted above, the market for the distribution of insurance products can be delineated according to life and non-life insurance products. However, the CID did not consider a further delineation given that the acquiring group is active in the provision of insurance services while the target group distributes insurance products.

32. **Based on the foregoing, the CID identified the relevant market as the market for the distribution of insurance products.**

33. On the basis of the foregoing assessment and without prejudice to future cases, the CID considered that the relevant product markets are:

    a) **the retail market for consumer goods via supermarkets, hypermarkets and discounters**

    b) **the market for the distribution of insurance products.**

Relevant Geographic Market

Retail market for consumer goods

34. With regard to the retail market for consumer goods, the CID noted that supermarkets or hypermarkets tend to be conveniently and strategically located closer to areas where consumers reside or in locations easily accessible to consumers. Consumers wishing to purchase daily consumer goods are likely to prefer outlets located in their vicinity and those which are easily accessible as opposed to those located far. Such choices are influenced by the costs and time it takes to travel to the retail outlet against the expected volume of purchase the consumer wishes to make. In this regard, the geographic scope of the market for the retail sale of daily consumer goods is likely to be national and localised. The CID noted that, a rational consumer is unlikely to travel from a Member State where he/she is residing and purchase consumer goods from a neighbouring Member State since this is likely to be costly and time consuming. Further, within the national boundaries of a country, a consumer residing in one particular location is likely to consider the cost and time implications of purchasing daily consumer goods from a retail outlet located far from where he/she resides. The costs of purchasing such goods are likely to increase the farther a consumer moves from their area of location. This is likely to limit the geographic market a certain radius from a consumer's area of residence.

35. The CID noted that the target group through Naivas Kenya, is a leading supermarket chain in Kenya with over 80 stores spread across Kenya. It sells its products in retail supermarkets[7] located in Nairobi, Nakuru, Embu, Machakos, Naivasha, Narok, Kisii, Uasin Gishu, Mombasa, Thika, Garissa, Kisumu, Nyeri, Bungoma, Kapsabet, Kericho, Kajiado regions. Further, the Acquiring Group through IBL Group, is active in the grocery retail market in Mauritius through Pick and Buy Limited which owns and operates a chain of 25 supermarkets in Mauritius. To this end, the CID considered that it is unlikely for a consumer to cross substitute purchases across the different cities where the parties operate retail outlets in Kenya and Mauritius which will limit the geographic scope of the market to the cities where the parties operate as this will prove costly and time consuming. The CID also considered that within such cities where the outlets are located, a consumer is likely to opt for an outlet that is nearest to them and easily accessible, thus narrowing the scope of the market further.

36. In ***Amethis/Naivas International***[8], the CID reached a conclusion that the relevant geographic markets for the retail sale of daily consumer goods were national and could be delineated within a radius of 30-minute drive to the retail outlet. This was on the basis that a consumer is constrained by costs and time to travel to a retail outlet as such will always be cautious to minimise these costs when making his/her purchase decisions. The CID noted that in its decisional practice, the EC has similarly delineated the geographic market for the retail of daily consumer goods by the boundaries of the territory where the outlets can be reached easily by consumers (within a radius of approximately 10 to 30 minutes driving time)[9].

37. In view of the foregoing, **the CID construed the relevant market as the retail market for daily consumer goods (via supermarkets, hypermarkets and discounters) in Kenya and Mauritius (located within a radius of 30-minute drive to a retail shop).**

Market for the distribution of insurance.

38. With respect to the distribution of insurance, the CID considered that the geographic scope of the market is likely to be national. Insurance services tend to be regulated under the relevant national laws of a country such that different requirements for operation apply in different Member States[10].

39. From a demand perspective, customers tend to search for insurance services through providers present within their locality. Further, customers prefer such

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[7] https://www.naivas.co.ke/content/contact-us accessed on 28th July 2022.
[8] Decision of the Seventieth (70th) Committee Responsible for Initial Determination Regarding the Proposed Acquisition of 30% of the Issued Share Capital of Naivas International by Amethis Retail, dated 10th March 2020.
[9] See para. 20, Case No COMP/M.5112 ñ REWE PLUS / DISCOUNT; Case No COMP/M.6847 - TRITON/ SUOMEN LÄHIKAUPPA.
[10] In Kenya, the insurance sector is regulated by the Insurance Regulatory Authority under the Insurance Act (Amendment) 2006; In Mauritius by the Financial Services Commission (FSC) under the Insurance Act 2005.

insurance schemes which are widely accepted in their countries as this tends to give convenience in lodging insurance claims, among other services. Thus, it is likely that clients would prefer to lodge claims within their country of residence as opposed to lodging claims beyond which may be time consuming and costly.

40. Given that target group distributes insurance only in Kenya, the relevant geographic market for the distribution of insurance is construed as Kenya.

Conclusion of relevant market

41. On the basis of the foregoing, and without prejudice to the CID's approach in similar future cases, the relevant markets were determined as the:

a) **retail market for daily consumer goods (via supermarkets, hypermarkets and discounters) in Kenya and Mauritius (located within a radius of 30-minute drive to a retail shop).**

b) **market for the distribution of insurance in Kenya.**

Market Shares and Concentration

42. With respect to the market for the retail sale of daily consumer goods, the parties submitted that their competitors and their estimated market shares in Mauritius as presented in Table 1 below.

Table 1: Broad Estimated market shares of Pick and Buy Limited (a subsidiary of IBL) and its competitors in the grocery retail market in Mauritius[11]

Name of Company	Estimated Market Share (%)
Pick and Buy Limited (*acquirer*)	**Less than 25%**
Aggregate of top 5 competitors	50 – 60

43. The CID noted that the grocery retail market in Mauritius is fragmentated with many players operating in the market as such competition is likely to thrive post-merger. Further, the CID recalled that the target group has no operations in Mauritius hence the existing market structure will not be altered by virtue of the proposed merger. Therefore, the transaction will not raise competition concerns on account of an accretion of the market markets by the merged entity.

44. With regard to the retail market for daily consumer goods in Kenya, the following market share information was submitted:

[11] Confidentiality of information claimed by the parties.

Table 2: Broad estimated market shares for top 5 competitors of Naivas Kenya in the grocery retail market in Kenya

Name of Company	Estimated Market share (%)
Quickmart Limited	[5-9] %
Carrefour (Majid Al Futtaim Retail	[5-9] %
Chandarana Foodplus	[2-4] %
Clean Shelf Supermarkets Limited	[1-3] %
Mulleys Supermarkets	[1-3] %

45. The CID further noted that in 2021 the Kenyan retail supermarket sector registered increased market activities[12]. This was evidenced by the aggressive expansion by major local and international retailers as opposed to 2020 which was marked with lockdowns leading to retailers scaling down their businesses to cushion themselves against the pandemic. Such expansion drives were seen from key local and international retailers in Kenya as follows: Naivas Kenya which opened 7 new stores in Kilifi, Kisumu, Nakuru, Eldoret, and Nairobi; Carrefour which opened 5 new stores in Kwale, Nairobi, and Kisumu; QuickMart which opened 4 new stores Nairobi and Eldoret; Cleanshelf which opened one new store in Nakuru; and Chandarana Food Plus which opened one new outlet in Eldoret. The CID further observed the following trends in the supermarkets sector in Kenya.

Table 3: Estimate market shares of the retail supermarket chains in Kenya[13]

Name of Retailer	branches in 2020	branches opened in 2021	Closed branches	Current number of branches	branches expected to be opened	Projected branches in 2021
Naivas	69	7	0	76	4	80
QuickMart	37	4	0	41	4	45
Chandarana Foodplus	20	1	0	21	2	23
Carrefour	9	5	0	16	0	16
Cleanshelf	11	1	0	12	0	12
Tuskys	64	0	61	3	0	3
Game Stores	3	0	0	3	0	0

[12] See https://cytonnreport.com/topicals/kenya-retail-report accessed on 28 July 2022.
[13] Ibid.

Uchumi	37	0	35	2	0	2
Choppies	15	0	13	2	0	2
Shoprite	4	0	4	0	0	0
Nakumatt	65	0	65	0	0	0
Total	334	18	178	176	10	183

46. From the above Table 3, the CID noted that Naivas is the leading retail supermarket with 80 outlets, followed by QuickMart, Chandarana Foodplus, Carrefour and Cleanshelf with 45, 23, 16, and 12 retail outlets, respectively. Despite Naivas being a large supermarket in Kenya, it is unlikely that its size will raise competition concerns given that the current transaction does not affect the existing retail supermarket structure in Kenya given the absence of the acquiring group in Kenya. The CID further noted the retail supermarket sector in Kenya is characterised competition from the competitors of Naivas such as QuickMart, Chandarana Foodplus, Carrefour and Cleanshelf who will continue to compete with Naivas post-merger. Further, the market can be said to be free from barriers to entry and expansion given the recent trend of retails expanding across Kenya. A further sign of existing competition is seen from the number of players that have exited the market or scaled down operations such as Nakumatt, Uchumi, Choppies and Shoprite have exited the market.

47. With regard to the market for the distribution of insurance, the CID noted that the relevant market structure is not likely to change given the absence of a horizontal overlap in the activities of the parties. Further, the CID's research revealed that this market is competitive as seen from the presence of several insurance agents that offer similar services. For instance, according to the Insurance Regulatory Authority of Kenya, there were over 10,000 registered insurance agents in Kenya as at July 2020.

48. The CID further noted that in any case, the target's market share in Kenya is only 1% and most of its sales, more than 70%, are derived from Naivas Kenya.

49. From the above, the CID concluded that a change in the structure of market is unlikely post-merger, given that the acquiring group and the target entities are active in different Member States' territories of the Common Market. Further, competition concerns are unlikely to arise since the market is characterised by actual and potential future competitors who will continue to offer these relevant products.

Third-Party Views

50. Submissions were received from the national competition authorities of Rwanda, Egypt, Seychelles and Kenya which did not raise any concerns in relation to the transaction. This is consistent with the CID's assessment, as presented above.

Determination

51. Based on the foregoing reasons, the CID determined that the merger is not likely to substantially prevent or lessen competition in the Common Market or a substantial part of it, nor be contrary to public interest. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.

52. The CID therefore approved this transaction. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 27th day of September 2022

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Commissioner Mahmoud Momtaz (Chairperson)

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Commissioner Lloyds Vincent Nkhoma

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Commissioner Islam Tagelsir Ahmed Alhasan