



COMESA Competition Commission

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**Common Market for Eastern
and Southern Africa**

01 August 2024

Notice of Request for Referral of the Proposed Acquisition by Access Bank Plc of all the issued share capital of National Bank of Kenya Limited

The COMESA Competition Commission (the “**Commission**”) hereby informs the public and relevant stakeholders that on 22 July 2024 and 1 August 2024, it received a request for referral of the abovementioned transaction from the Competition Authority of Kenya (“**CAK**”), pursuant to Article 24(8) of the COMESA Competition Regulations (the “**Regulations**”).

Article 24(8) of the Regulations provides that a Member State may request the Commission to refer a merger to a competent authority of the Member State for consideration under the Member State’s national competition law if such Member State is satisfied that the merger, if carried out, is likely to disproportionately reduce competition to a material extent in such Member State or any part of such Member State.

CAK has requested that the matter be referred to Kenya in order for the transaction to be assessed as a local notification. In particular, CAK has submitted that the merging parties operate in the banking and bancassurance markets in Kenya and that the transaction will primarily affect the Kenyan market. It is noted that CAK has previously considered a merger transaction involving the target, which was approved with conditions to address concerns on employment that were arising at the time.

CAK has noted that the Regulations provides for certain aspects of public interest, such as employment as part of competition issues as illustrated in the definition of the term ‘competition’ in the Regulations. In view of the parties’ intent to merge the operations of the acquirer and target in Kenya, CAK is concerned that the proposed transaction may raise competition concerns in the form of loss of employment opportunities being a horizontal merger in Kenya.

Interested parties are hereby invited to make reasoned submissions to the Commission **by 8 August 2024** on whether the Commission should refer the whole or any part of the merger to CAK. If you wish to seek further details and/or clarifications on any aspect of this transaction, you may get in touch with **Mr. Boniface Makongo, Director, Competition Division**, on +265 (0) 111 772 466 or via email at bmakongo@comesacompetition.org, with a copy to mergers@comesacompetition.org.