



COMESA Competition Commission
Kang'ombe House, 5th Floor
P.O. Box 30742
Lilongwe3, Malawi
Tel: +265 (0) 111 772466
Email- compcom@comesacompetition.org



**Common Market for Eastern
and Southern Africa**

12 August 2024

COMESA Competition Commission Grants Referral of the Part of the Proposed Acquisition by Access Bank Plc of all the issued share capital of National Bank of Kenya Limited

On 22 July 2024 and 1 August 2024, the COMESA Competition Commission (the “**Commission**”) 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**”). The Referral Notice can be accessed [here](#).

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.

The Commission has reviewed the request made by CAK as well as the submissions by the merging parties and has resolved that the referral request is justifiable having regard to the significant operations of the merging parties in Kenya and the national character of potentially affected markets and thus the likely disproportionate effect on competition, as defined in the Regulations, in Kenya.

The grant of the referral does not prejudice the finding of competition concerns in the Member State. Further, the referral does not exclude collaboration with CAK as the Commission will continue to review the transaction in relation to the rest of the Common Market and the two authorities shall ensure there are no significant divergences in their respective approach to the competition assessment. Convergence on the approach to competition assessment does not presuppose a uniform or same conclusion from the two authorities.

In view of the foregoing, the Commission is satisfied that CAK is the most appropriate authority for dealing with aspects of the transaction relating to the Kenyan market.

The Commission thus hereby informs the public that, pursuant to Article 24(9)(b) of the Regulations, the part of the transaction relating to the Kenyan

market is hereby referred to CAK. The Commission shall retain jurisdiction over the parts of the transaction relating to markets outside Kenya.

More information is available on the Commission's [Merger Cases](#) webpage, under the case number [MER/04/18/2024](#).

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.