COMESA Competition Commission
COMESA Competition Commission
Kang'ombe House, 5th Floor
P.O. Box 30742
Lilongwe 3, Malawi
Tel: +265 111 772 466/529/530
Email- compcom@comesacompetition.org

Common Market for Eastern
and Southern Africa

Case File No. CCC/MER/02/11/2025

Decision[1] of the 121st Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Formation of a Full – Function Greenfield Joint Venture by Orange RDC S.A. and Vodacom International Limited

ECONOMIC SECTOR: Telecommunications

COMESA COMPETITION COMMISSION
10 NOV 2025

10 November 2025

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.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

Desirability of the overriding objective of the Treaty establishing the Common Market for Eastern and Southern Africa (the "**Treaty**"), namely the strengthening and achieving convergence of COMESA Member States' economies through the attainment of full market integration;

Cognisant of Article 55 of the 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;

Having regard to the COMESA Merger Assessment Guidelines of 2014;

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.

Determines as follows:

Introduction and Relevant Background

1. On 15 April 2025, the COMESA Competition Commission (the "**Commission**") received a notification for the approval of the merger regarding the formation of a newly-established, full-function greenfield Joint Venture between Orange RDC S.A. ("**Orange RDC**") and Vodacom International Limited ("**Vodacom International**") (together "**the Parent Companies**"), pursuant to Article 24(1) of the Regulations.

2. The 120-days' period for the assessment of the transaction expired on 18 August 2025. Therefore, the Committee Responsible for Initial Determinations ("**CID**") extended the timeline for assessment of the transaction to allow the Commission to further assess the likely competition concerns from the transaction.

3. 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.

4. Pursuant to Article 13(4) of the Regulations, there is established a CID. The decision of the CID is set out below.

The Parties

Orange RDC

5. Orange RDC is a subsidiary of Orange S.A. ("**Orange**"), a multinational telecommunications service provider, which operates mobile, fixed and internet services. Orange is active in Africa through several subsidiaries, where it offers mobile telecommunications, fixed telephony, internet access services as well as mobile money services. In the Common Market, Orange operates in the Democratic Republic of Congo ("**DRC**"), Egypt and Madagascar.

6. The parties submitted that Orange RDC controls the following firms in the DRC:

   i. Orange Money RDC S.A., a company incorporated under the laws of the DRC, in which Orange RDC has 99.9% shareholding;

   ii. Orange RDC Internet S.A., a company incorporated under the laws of the DRC, in which Orange RDC has 99.9% shareholding; and

   iii. Mawezi RDC S.A., a company incorporated under the laws of the DRC, in which Orange RDC has 50% shareholding.[2]

7. The activities of Orange in the Common Market are presented in Table 1 below.

Table 1: Activities of Orange in the Common Market

Member State	Activity
DRC	Mobile voice; data / internet access; fixed telephony; mobile money services and internet landing provider services.
Egypt	Mobile voice; data / internet access and fixed telephony.
Madagascar	Mobile voice; data / internet access; fixed telephony and mobile money services.

Vodacom International

8. Vodacom International is a subsidiary of Vodacom, a provider of telecommunications, connectivity, digital and financial services. Vodacom is active through several subsidiaries, where it offers mobile communications, voice,

---

[2] It is recalled that the CID at its 107th Meeting approved the creation of a joint venture, the JVCo, by Airtel RDC S.A. and Orange RDC to provide space facilities, and landing provider services to a Consortium responsible for the construction, operation and maintenance of the 2Africa West Cable System in DRC.

messaging, data, financial services and converged services to over 130 million customers across Africa.

9. In the Common Market, Vodacom operates in the DRC, Egypt, Kenya and Mauritius.

10. The activities of Vodacom in the Common Market are presented in Table 2 below.

Table 2: Activities of Vodacom in the Common Market

Member State	Activity
DRC	Telecommunications and mobile financial services
Egypt	
Kenya	
Mauritius	Investment holding companies for telecommunications ventures in Africa

TowerCo (the "Target JV")

11. TowerCo is intended to be established as a "full-function" greenfield joint venture incorporated by the Parent Companies and is intended to provide large-scale telecommunications tower infrastructure aimed at increasing population coverage within greenfield rural areas in the DRC. TowerCo is yet to start operations.

12. TowerCo will perform on a lasting basis all the functions of an autonomous economic entity. In addition, TowerCo will bear the responsibility of obtaining all permits, licenses and approvals necessary for the construction and operation of the telecommunications tower infrastructure in the various rural area locations within the DRC.

13. The parties have submitted that the Parent Companies (through TowerCo) intend to construct telecommunications tower infrastructure on [redacted][3]

14. TowerCo will provide Radio Access Network ("**RAN**") Sharing to its anchor tenants (i.e., the Parent Companies or their affiliated companies) and will offer non-discriminatory access to passive infrastructure sharing for third-party mobile network operators on all of its newly constructed telecommunications tower infrastructure macro sites in the DRC.

15. The parties submitted that the Parent Companies will finance TowerCo the construction of telecommunications tower infrastructure (and any additional ad hoc financial contributions that may be required from time to time) by TowerCo.

[3] Confidential information claimed by merging parties

COMESA COMPETITION COMMISSION
10 NOV 2025

16. The parties further submitted that the Parent Companies will each (directly and/or indirectly) contribute limited human resources to ensure the successful management of TowerCo's operations. The seconded employees will be ring-fenced from their current positions at each of the Parent Companies and the necessary protocols, including the establishment of ethical walls, will be implemented in order to prevent the exchange of commercially sensitive information between the Parent Companies.

Jurisdiction of the Commission

17. 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".*

18. The undertakings concerned have operations in two or more Member States. The undertakings concerned derived a turnover of more than the threshold of USD50 million in the Common Market and they each derived a turnover of more than USD10 million in the Common Market. In addition, the parties do not derive/hold more than two-thirds of their respective aggregate turnover or asset value in one and the same Member State. The CID was thus satisfied that the transaction constitutes a notifiable transaction within the meaning of Article 23(5)(a) of the Regulations.

Details of the Merger

19. The notified transaction involves the proposed setting up of a newly incorporated Société Anonyme established in the DRC by the Parent Companies in which each Parent Company will hold 50% shareholding. The parties submitted that pursuant to a successful implementation of the proposed transaction, Orange RDC and Vodacom International will jointly control TowerCo.

Competition Analysis

Consideration of the Relevant Markets

20. In the determination of the relevant market, which is divided into relevant product and relevant geographic markets, the CID is guided by its Guidelines on Market definition and other authorities on the subject.

Relevant Product Market

21. The CID noted that Orange provides mobile telecommunications, fixed telephony, internet access services as well as mobile money services. Specifically in the DRC, Orange provides mobile voice, data / internet access, fixed telephony, mobile money services and internet landing provider services. The CID further noted that Vodacom provides mobile communications, voice, messaging, data, financial services and converged services. Specifically in the DRC, Vodacom provides telecommunications and mobile financial services. The CID also noted that TowerCo will provide telecommunications tower infrastructure within greenfield rural areas in the DRC, providing RAN Sharing to its anchor tenants (being the Parent Companies) and third-party MNOs.

22. The CID observed that the Parent Companies provide MNO services and mobile financial services which therefore raises a vertical overlap between the activities of the Parent Companies and TowerCo. The CID also observed that the Parent Companies are both active in mobile telecommunication services and mobile money services, and this raised potential horizontal effects.

23. In line with Paragraph 8.4 of the COMESA Merger Assessment Guidelines, the CID's assessment of the relevant market(s) focused on the horizontal overlap between the product and geographic relations supplied by the parties and for the non-horizontal link, the CID's assessment of the relevant markets has been made in conjunction with applicable theories of harm, including non-coordinated and coordinated effects.

Mobile telecommunication services

24. The CID considered that telecommunication services are communication services such as voice telephony services; internet services; and value-added services that mobile network operators provide to their customers (i.e., end users).[4] These services are supplied using licensed spectrum and mobile network infrastructure, and are typically offered on a bundled basis, such that consumers purchase a

[4] https://macra.mw/licensing-telecommunications/, accessed on 10 November 2025

package of services (including voice, SMS, and data) rather than individual components.

25. Since both Parent Companies operate mobile telecommunication networks, the CID's assessment of the relevant product market focused on the provision of mobile telecommunication services and related infrastructure.

26. The CID considered that mobile telecommunication services can be segmented into voice communication and data internet services which are transmitted on 2G, 3G, 4G or 5G networks. The CID noted that data services have been defined to include text messaging, access to email and general internet services.[5] From the demand side, the CID was of the view that voice communication, text messaging and data can be used interchangeably.

27. Mobile telecommunication services may be delineated based on technology (2G, 3G, 4G or 5G), customer segments (private or business), and the type of service (voice, text or data). Given that the Parent Companies are both active in providing mobile telecommunication services, the CID considered that the transaction may raise the risk of input foreclosure of the JV Parent Companies' competitors in the downstream market or customer foreclosure in the upstream market. The CID also considered that TowerCo may act as a platform for sharing of sensitive market information between the Parent Companies; and the Parent Companies and other MNOs using the services of TowerCo.

28. Therefore, for purposes of assessing the likely competition concerns that may arise from the transaction, the CID identified the provision of mobile telecommunication services (including data) as a relevant product market.

Mobile money services

29. The CID recalled that the Parent Companies are also active in the provision of mobile money services. Mobile money is a payment platform or digital wallet accessible on mobile phone which facilitates the transfer of funds between users from one mobile phone to another, payment of bills and transfer of funds from digital wallet to a bank account.

30. The CID noted that to access mobile money services, a user requires to interface with mobile telecommunication services through internet access or using USSD code.

31. Similar to the provision of mobile telecommunication services, the CID considered that foreclosure concerns may arise in the market for provision of mobile money given that its provision is facilitated by the providers' accessibility to telecommunications tower services which service TowerCo intends to supply.

---

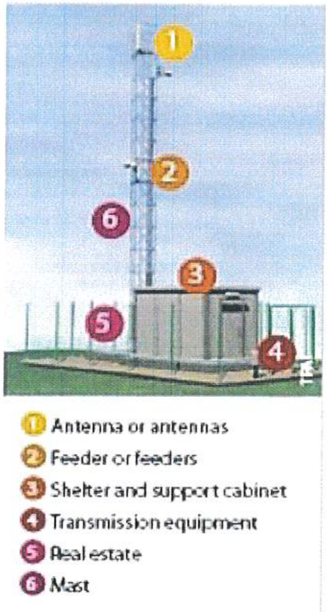
[5] Case No COMP/M.5650 – T-Mobile/Orange

COMESA COMPETITION COMMISSION
1 0 NOV 2025

32. The CID noted that MNOs require both passive and active infrastructure to supply their services. Passive telecommunication infrastructure refers to the physical supporting and non-electronic infrastructure at a cell site, such as towers, masts, power supply, air conditioning and management system and site support cabinets.[6] Active telecommunication infrastructure refers to the electronic infrastructure of the network including antennas, base transceiver station, backhaul networks and controllers.

33. The CID observed that a typical mobile telecommunication infrastructure can be visually depicted as below.[7]

Figure 1: Visual depiction of telecommunication infrastructure



34. As noted above, TowerCo will provide both passive infrastructure and active equipment infrastructure to allow for RAN Sharing to its anchor tenants, that is, the Parent Companies or to their affiliated companies.

35. The CID recalled that in ***Eaton Towers Holdings/ATC Heston B.V.***[8], it considered that the telecommunication infrastructure market can be segmented into passive and active infrastructure. While passive infrastructure only seeks to provide a platform where different MNOs can setup their various telecommunication equipment, active infrastructure is typically unique to a particular MNO and is key in ensuring that actual transmission of telecommunication services is possible. Passive and active infrastructure are thus not substitutable and do not belong to

---

[6] Decision of the Seventy-Sixth Committee Responsible for Initial Determination Regarding the Proposed Merger Involving IVY 2 Investments VCC and PIL Holdings Pte. Ltd

[7] Telecom Regulatory Authority of India, Recommendations on Infrastructure Sharing

[8] Decision of the Sixty-Seventh Committee Responsible for Initial Determination Regarding the Acquisition of 100% Shareholding in Eaton Towers Holdings Limited by ATC Heston B.V.

the same product market. The CID noted that from TowerCo's description of activities that its service relates to the provision of both passive and active infrastructure.

Provision of passive infrastructure

36. The CID observed that an important part of the passive infrastructure market are telecommunication towers. Telecommunication towers are also referred to as cell sites or cell towers. Passive infrastructure is a key input for the provision of retail mobile telecommunications services. MNOs require access to physical infrastructure in the form of tower structure that hosts the MNO's antennas and provide ancillary services such as power supply in order to provide their services to end users. Telecommunication towers can be in different forms including lattice towers, monopoles and roof top towers.

37. Active equipment is placed by MNOs and other network operators on communication towers, to allow the transmission of data to enable mobile and other network services.[9] Passive infrastructure allows signals from active equipment to travel in both directions between mobile handsets and the active equipment installed on a base station or tower. From there, the signals connect to the core MNO network through microwave links, the operator's own fixed network, or leased lines from another provider. These passive infrastructure assets are essential for MNOs, as they enable both coverage (making signals available across different locations) and capacity (supporting simultaneous communication for multiple users when a signal is present) for their customers.

38. Telecommunication towers are built for providing services within a specified region.[10] MNOs require these towers to place their respective radio antennae in order to provide their services to end users. Telecommunication towers may be owned by MNOs or may be leased from independent suppliers who design, build, own, and operate passive telecommunications infrastructure.

39. The CID noted that suppliers of telecommunication towers provide their services through two business models:

    i. Build-to-Suit ("**BTS**"): where a new telecommunication tower is built specifically as commissioned by an MNO, typically under a long-term anchor tenancy agreement. BTS secures immediate revenue and provides control over deployment location and commercial terms; and

    ii. Co-location: where space is leased on an existing tower to additional MNOs. Co-location is the most efficient way to grow revenues per site but requires

[9] Decision of the Seventy-Sixth Committee Responsible for Initial Determination Regarding the Proposed Merger Involving IVY 2 Investments VCC and PIL Holdings Pte. Ltd
[10] *Ibid*

having a sufficiently large and well-positioned existing portfolio to attract tenants.

40. A telecommunication tower can host the active equipment of more than one MNO. Indeed, co-location of telecommunication towers is a reality in the Common Market because this democratises access to the tower but also by allowing the supplier of the passive infrastructure to share the costs of the supply, it also incentivises the supplier to continue provide the service, especially in non-lucrative areas.

41. While there exists in theory a number of properties (other than towers) that can be converted to accommodate digital communication transmission equipment, in practice the suitability of these properties depends on several factors, including the planning regulations, environmental considerations, or space constraints, coverage territory according to capacity needs. In particular, in rural areas where TowerCo intends to operate, it is unlikely that there would be suitable alternatives for the towers such as high-rise buildings.

42. For purposes of this transaction, the CID construed the relevant product market as the provision of passive infrastructure (including the towers) for mobile network communication.

Provision of active equipment

43. The CID observed that active equipment as mentioned refers to the antennae, cables and other electronic equipment that are hosted on telecommunication towers. The CID noted the parties' submission that active infrastructure refers to electronic infrastructure and facilities of a telecom tower required by a cell site which includes base transceiver station/node B, spectrum, antenna, feeder cable, radio access network, microwave radio equipment, and base station controller/radio network controller.

44. Active equipment can be owned and sourced by the MNO, or it can be provided by the provider of the passive infrastructure. Where the tower owner provides the active equipment, the latter is responsible for the procurement of the infrastructure, and the MNO has little to no input into which active infrastructure is included in the tower.

45. The CID held the view that active infrastructure in the mobile towers is likely to be similar in terms of functionality for all areas where towers are built, that is in both urban and rural geographic regions. Active infrastructure will be aligned to the traffic that it handles, where those in urban areas are designed to handle higher mobile traffic due to the higher population counts in urban areas. Another difference that could arise is possibly the backhaul that each tower uses can also be different – the urban market could use fibre or microwave for backhaul whereas the rural market is more likely to use satellite or microwave as a backhaul medium.

46. The CID noted that TowerCo will provide RAN to its anchor tenants and grant access to the towers to other MNOs, giving the MNOs the possibility to procure and install their own active equipment on the passive infrastructure.

47. The CID considered that from the demand-side, MNOs require access to a complete infrastructure solution that allows them to provide their services to end users. Whether that solution is provided by separate passive/active suppliers or by an integrated provider, or by themselves is less relevant for as long as they have access to their input to supply retail mobile services. Conversely, TowerCo could also provide active equipment to third party MNOs on its towers.

48. While the CID noted that there exists a likelihood for third-party MNOs to install their own active equipment on the passive infrastructure of TowerCo and considering the difference between active equipment and passive infrastructure, for the purposes of this transaction, the CID considered that the provision of active equipment is distinct from the provision of the passive infrastructure for mobile network communication. Given that TowerCo will provide mainly passive infrastructure, the CID limited its assessment with respect to the provision of passive infrastructure.

49. Based on the foregoing assessment and without prejudice to its approach in similar future cases, the CID determined the relevant product markets as:

   i. **the provision of mobile telecommunication services;**

   ii. **the provision of mobile money services; and**

   iii. **the provision of passive telecommunication infrastructure services.**

Relevant Geographic Market

50. With regards to mobile telecommunication services and mobile money services, the CID recalled its previous decision which considered that a national market limited to the DRC can be identified given the regulatory requirements peculiar to each country where providers operate which have implications on pricing.[11] The CID recalled that it has previously considered that one of the important requirements to provide telecommunication services in a country is access to and usage of spectrum which is allocated and managed by a local telecommunications regulator such as the Autorité de Régulation de la Poste et des Télécommunications du Congo in the case of the DRC.[12] Spectrum is a national resource which cannot be used outside of the borders of the country in question. Although subscribers on a mobile network may roam when they are abroad, this is achieved through separate bilateral agreements between MNOs. This further

[11] Decision of the 107th Meeting of the Committee Responsible for Initial Determinations regarding the creation of a Joint Venture, Mawezi RDC S.A., by Airtel RDC S.A., and Orange RDC S.A

[12] *Ibid*

supports the argument that the geographic scope of telecommunication services is national and for the current case, is the DRC. It should also be noted that from a demand perspective, users are unlikely to timely switch to a service provider outside the DRC in event of a small but significant non-transitory increase in price ("**SSNIP**") as they would be limited by registration requirements for subscribing and it may also prove costly to use a mobile service provider other than those registered in one's country of residence. Similarly, these restrictions will apply in the case of mobile money services whose geographic scope is also considered as national.

The provision of passive telecommunication infrastructure services

51. The CID recalled its decisional practice[13] which considered that the provision of passive infrastructure for mobile network communication tends to serve the customers, MNOs and other internet service providers in a particular locality within a country. The CID considered that from a demand side perspective, it is unlikely that an MNO or other internet service providers will be able to switch and immediately rent space on towers outside a country of its operation. The CID further considered that the regulatory framework surrounding access to passive infrastructure may limit the extent to which substitutability across countries is possible. The CID determined that conditions of competition are heterogeneous across countries on account of different tariffs and exchange rate variations, the degree of coverage required, regulatory requirements and access to suitable sites.

52. Based on its decisional practice, the CID determined the relevant geographic scope for the provision of passive infrastructure as limited to only to the Member State where TowerCo will have operations, namely the DRC. The CID further considered that this market may be delineated further to sub-regions within a country. For example, the CID observed that TowerCo will serve in rural areas of the DRC referred to as "white spot" rural areas. Therefore, for the purposes of this transaction, the relevant geographic market is further narrowed down to the "white spot" rural area in the DRC. The CID also observed that it is unlikely that if the price of access to the tower in the "white spot" rural area is increased by 5% to 10%, an MNO would shift and acquire similar access in another location. Such a shift would be limited because it is likely to costly and would significantly diminish the quality of its services.

Conclusion on Relevant Markets

53. Based on the foregoing assessment, and without prejudice to its approach in similar future cases, the CID identified the relevant markets as:

    a. **the provision of mobile telecommunication services in the DRC;**

[13] Decision of the 113th Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Acquisition of Wananchi Group (Holdings) Limited by Axian Telecom Fibre Limited

b. **the provision of mobile money services in the DRC; and**

c. **the provision of passive telecommunication infrastructure services in "white spot" rural areas in the DRC.**

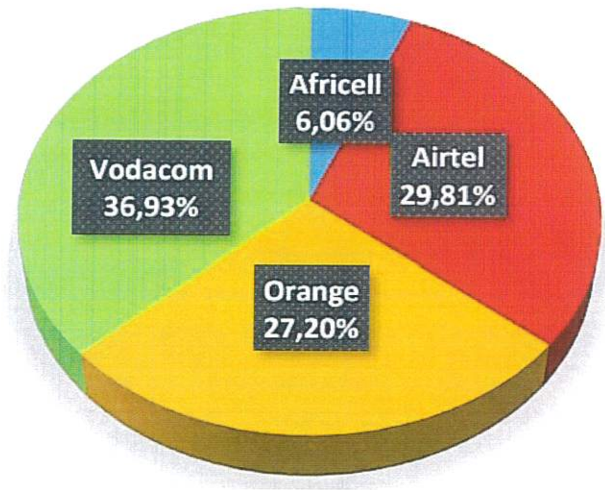
Consideration of Substantial Lessening of Competition or "Effect" Test

Market Shares and Concentration

The provision of mobile telecommunication services in DRC

54. The CID considered the market shares for the provision of mobile telecommunication services based on the number of subscribers in DRC as of March 2025 as per Figure 2 below.[14]

Figure 2: Market shares for mobile telecommunication services in DRC as at March 2025



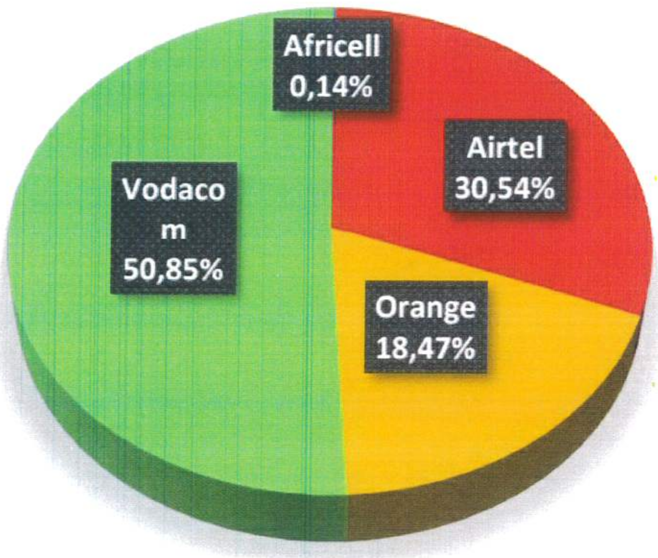
55. The CID noted that the telecommunications market in DRC consists of four licensed MNOs, namely Vodacom, Orange, Airtel and Africell. Vodacom is the largest MNO's operating in the DRC and Orange is the third largest MNO and they together have a combined market share of 64.13% in the provision of mobile telecommunication services.

[14] Autorité de Régulation de la Poste et des Télécommunications du Congo Market Observatory Report for mobile telecommunication https://arptc.gouv.cd/app/uploads/2025/08/Rapport-observatoire-de-marche%CC%81-T1-2025.pdf accessed 10 November 2025

The provision of mobile money services in DRC

56. The CID considered the market shares for the provision of mobile money services based on the number of subscribers in DRC as of March 2025 as per Figure 3 below.[15]

Figure 3: Market shares for mobile money services in DRC as at March 2025



57. The CID noted that the suppliers for mobile money services in DRC consists of four licensed MNOs, namely Vodacom, Orange, Airtel and Africell. Vodacom is the largest MNO's operating in the DRC and Orange is the third largest MNO and they together have a combined market share of 69.32% in the provision of mobile money services.

58. The CID observed that the respective 64.13% and 69.32% combined market shares of the Parent Companies in mobile telecommunication services and mobile money services were significant. The CID considered that while a large market share in itself is not problematic, any conduct of the Parent Companies warrants scrutiny to assess whether such conduct may be used to protect or enhance the current market shares of the Parent Companies. Given that the assessment of the transaction was forward looking, the CID was of the view that by self-providing and controlling a critical input for the provision of MNO services in virgin and underserved rural areas, the Parent Companies will have an enhanced advantage over their non-integrated competitors.

[15] Autorité de Régulation de la Poste et des Télécommunications du Congo Market Observatory Report for mobile telecommunication https://arptc.gouv.cd/app/uploads/2025/08/Rapport-observatoire-de-marche%CC%81-T1-2025.pdf accessed 10 November 2025

The provision of passive telecommunication infrastructure services in DRC

59. The CID considered the parties' submission of the following market shares for the provision of telecommunication tower services in DRC.

Table 3: Non-Confidential Market Shares Ranges for the provision of telecommunication tower services in the DRC[16]

Supplier	Total Telecommunication Tower Sites	Market Share Ranges (%)
Helios	[redacted]	[50 – 60]
TowerCo	***Currently – 0*** [redacted]	***Currently – 0*** ***Less than 16% (assuming the Proposed Transaction is successfully implemented*** [redacted]***)***
Vodacom	[redacted]	***[10 – 20]***
East Castle	[redacted]	[10 – 20]
Airtel	[redacted]	[0 – 10]
Orange RDC	[redacted]	[0 – 10]
Others	[redacted]	[0 – 10]
Total	[redacted]	**100**

60. The CID noted that prior to the transaction, both Parent Companies own telecommunication tower sites in the DRC. From Table 3 above, the CID noted that Vodacom presently owns [redacted] tower sites[17] whereas Orange owns [redacted] tower sites.[18] At present, Vodacom has a market share of less than 14% while Orange has a market share of less than 1%. The CID observed that the Parent Companies market shares currently do not look significant to raise concerns. However, with the combined financial capacity to build and roll-out TowerCo, especially in underserved areas, TowerCo may exert significant market power to raise competition concerns within the new and underserved areas, TowerCo is even likely to be dominant in these areas.

61. While the CID noted that TowerCo presently has no operations in the DRC and therefore its current market share is 0%, TowerCo, however, intends to deploy

---

16 [redacted]

17 Confidential information claimed by merging parties.

18 Confidential information claimed by merging parties.

[redacted] [20] *Ceteris Paribus*, and assuming that the Proposed Transaction is successfully implemented [redacted], TowerCo is likely to have a market share of approximately less than 16%.

62. The CID considered that the transaction will therefore lead to market share accretion for the provision of passive telecommunication infrastructure services in the DRC. Based on the above presumption and assuming none of the other passive infrastructure providers especially Helios the market leader construct new towers, the transaction will confer upon the merging parties, a combined market share of less than 31%, assuming all other things remaining constant.

63. The CID observed that the proposed transaction will increase the market shares of the merging parties and all things remaining constant, the proposed transaction will bring Vodacom and the TowerCo among the top 3 providers of passive infrastructure in the DRC. The CID considered that the relevant markets were characterised by significant barriers to entry, in terms of costs and regulation. Additionally, the relevant markets were not characterised by significant countervailing buyer power. The CID was therefore concerned that the proposed transaction may also lead to vertical effects in the relevant markets.

Barriers to Entry/Exit

64. The CID held the view that the relevant markets are regulated and each market participant, including the merging parties, is required to obtain a licence from the regulator for each of its activities within the relevant markets. The regulatory licensing process can be lengthy.

65. The CID noted that the relevant markets are characterised by high regulatory barriers and are capital intensive.

66. Specifically, in the provision of passive telecommunication infrastructure services, the CID noted that the growth and expansion of independent suppliers is principally facilitated by BTS. This is because BTS is the only way to expand an incumbent supplier's tower base and create additional colocation opportunities.

67. The CID also observes that the nature of the operations of TowerCo, being in rural areas, and with arguably limited number of subscribers, it may take a longer time for the provider to break even. For this reason, firms which do not have a portfolio of activities to subsidise a loss making business, may not be willing to enter the market in the short to medium term.

[19] Confidential information claimed by merging parties.
[20] Confidential information claimed by merging parties.

COMESA COMPETITION COMMISSION
10 NOV 2025

68. Based on the above, the CID concluded that barriers to entry in the relevant markets are prohibitive, to the extent that they hinder expansion of existing firms and inhibit likely, timely and effective entry by new firms.

Consideration of Dominance/ Unilateral Effects

69. For unilateral effects to be present, the merged entity should be in a dominant position. A dominant position exists where the undertaking concerned is in a position of economic strength which enables it to prevent effective competition being maintained on the relevant market by giving it the power to behave to an appreciable extent independently of its competitors, its customers, and, ultimately, consumers.

70. The CID noted that the activities of the Parent Companies raise horizontal overlaps with the operations of TowerCo. Prior to the transaction, Vodacom holds [redacted] tower sites while Orange holds [redacted] tower sites.

71. The CID observed that the transaction would result in market share accretion of less than 15% for the provision of passive telecommunication infrastructure services in DRC, being the combined market shares of Orange RDC (less than 14%) and Vodacom (less than 1%) as per the market shares presented in Table 3 above.

72. However, regarding the provision of passive telecommunication infrastructure services in the DRC, the CID noted that after the commencement of the operations of TowerCo, the market will still be dominated by Helios, with a market share of 50 - 60%.

73. However, the CID observed that TowerCo intends to build its towers in rural areas in the DRC to provide coverage to an additional [redacted] as per the areas highlighted in Figure 4 below.[21]

[21] Confidential information claimed by merging parties.

[redacted]

74. [redacted][22] In greenfield rural areas, towers are built because no mobile infrastructure currently exists. The CID observed that given that the towers are intended to be built in greenfield zones, it is likely that TowerCo will be the only provider of passive infrastructure services in these rural areas and therefore would dominate the relevant market in these areas.

75. The foregoing notwithstanding, TowerCo is not likely to result in a reduction of competition in the provision of passive infrastructure but on the contrary, it will increase capacity and coverage in these areas. The building of towers in underserved or unserved areas expands coverage and improves service quality, which is typically pro-competitive, because it increases consumer choice, enhances connectivity and digital access.

76. The CID further noted that the parties' submissions on limited digital access in the above identified areas can be corroborated from the Autorité de Régulation de la Poste et des Télécommunications du Congo data on the number of mobile telecommunication and mobile money services per provinces in DRC as of 31 March 2025.[23]

---

[22] Confidential information claimed by merging parties.
[23] https://arptc.gouv.cd/app/uploads/2025/08/Rapport-observatoire-de-marche%CC%81-T1-2025.pdf accessed 10 November 2025

77. The concern however is a restriction of competition with regard to MNOs accessing passive infrastructure of TowerCo as it is likely to give preference to its Parent Companies resulting in foreclosure effects.

78. As presented above, the CID observed that there are vertical links between TowerCo's operations in the upstream market for the provision of passive telecommunication infrastructure services in the DRC on the one hand and the respective downstream markets for the provision of mobile telecommunication services in the DRC and the provision of mobile telecommunication services in the DRC, which can raise input foreclosure concerns.

Input Foreclosure

79. The CID considered that access to passive telecommunication infrastructure was essential for MNOs in the provision of mobile telecommunication services. RAN equipment, such as antennas and related active equipment are placed on telecommunication towers, to allow MNOs to transmit and receive radio signals, and therefore cannot provide mobile coverage to end-users without RAN equipment.

80. The CID observed that telecommunication towers are expensive and are characterized by high sunk costs. The building of telecommunication towers is a lengthy process and therefore entry into this market may not always be timely. Therefore, if an MNO cannot access telecommunication towers, its ability to compete is impaired, as it would face significantly higher costs and longer lead times to deploy alternative infrastructure. The CID considered that ensuring fair access to towers is therefore critical to maintaining effective competition among MNOs.

81. The CID noted from the parties' submissions that TowerCo will provide RAN sharing to its anchor tenants (that is, the Parent Companies or their affiliated companies) and will offer non-discriminatory access to passive infrastructure sharing for third-party mobile network operators on all of the newly constructed telecommunications macro tower infrastructure sites in the DRC.

82. The CID was satisfied that access on 100% of the newly constructed macro tower infrastructure sites by TowerCo addresses any likely input foreclosure concerns. However, to entrench this access, the CID is of the view that a remedy should be provided to ensure that access is indeed given by TowerCo on 100% of the newly constructed macro tower infrastructure sites.

Consideration of Coordinated Effects

83. The removal of a firm through a merger may facilitate coordination, express or tacit, among the remaining firms in the industry, leading to reduced output, increased prices, or diminished innovation. Stable or successful coordination

COMESA COMPETITION COMMISSION
10 NOV 2025

requires an ability to detect and punish deviations that would undermine the coordinated interaction.

84. Given that the overlap between the Parent Companies and the JV in the provision of passive telecommunication infrastructure services in the DRC, the CID held the view that transaction will not remove any significant competitor from the relevant market and therefore will not create any added incentive for the existing players to engage in successful collusion.

85. The CID was, however, concerned that TowerCo may provide a platform to the Parent Companies, two major MNOs in DRC, to align their competitive strategies or share confidential information with regards on telecommunication and mobile money markets.

86. The CID noted that TowerCo will also handle information of MNOs other than Orange and Vodacom. The CID considered that TowerCo is therefore likely to have access to information of competing MNOs in terms of their network traffic and expansion strategies. Therefore, the CID was concerned that TowerCo may act as a platform for Orange and Vodacom to obtain commercially confidential information about their competitors.

87. [redacted][25] [redacted]

88. The CID noted the parties' submission that the Parent Companies will each (directly and/or indirectly) contribute limited human resources to ensure the successful management of TowerCo's operations. The parties further submitted that these employees will be ring-fenced from their current positions at each of the Parent Companies and the necessary protocols, including the establishment of ethical walls, will be implemented in order to prevent the exchange of competitively sensitive information between the Parent Companies.

[24] Confidential information claimed by merging parties.
[25] Confidential information claimed by merging parties.

89. While the CID noted the autonomy of TowerCo from the Parent Companies in terms of its management, the CID was nonetheless concerned that the structural arrangement of TowerCo could lead Orange and Vodacom to have access to commercially sensitive information (including information on future investment strategies for rural coverage expansion, information on cost structures and churn rates) on each other and for their MNO competitors.

90. In order to ensure the effective implementation of the above restrictions, the CID considered that the Parent Companies be required to establish information barriers between their MNO operations and TowerCo's operations.

91. In order to further curtail any incentives for the Parent Companies to engage in any coordinated action, the CID considered that an obligation to establish information barriers should be put on Orange and Vodacom, respectively, to prevent the flow of information between their provision of mobile telecommunication services in DRC and the provision of mobile money services in DRC, other than for purposes of normal reporting requirements as shareholders. The merging parties should further be required, within a period of three months from the date of approval of the transaction, to submit to the Commission a report setting out the necessary practical steps taken by it to establish the abovementioned information barriers.

Determination

92. The CID determined that the transaction was likely to substantially prevent or lessen competition in the relevant markets.

93. Considering the significant concerns identified in the relevant markets and guided by its mandate to ensure that markets remain contested, the CID approved the transaction subject to the following remedies agreed upon by the parties:

(a) **TowerCo shall provide access to third-party MNOs on all of the newly constructed telecommunications tower infrastructure macro sites in the DRC on terms which are no less favourable than what is offered to the Parent Companies;**

(b) **The Parent Companies shall establish information barriers between their MNO operations and TowerCo's operations, other than for purposes of normal reporting requirements as shareholders. Within a period of three months from the implementation of the Proposed JV, the merged entity shall submit to the Commission a report setting out the necessary practical steps taken by it to establish the information barriers;**

(c) **The merging parties shall submit, within thirty (30) days of each anniversary of the implementation of the Proposed JV, for a period of**

three (3) years, a comprehensive report detailing compliance with the above remedies. The above remedies do not, however, prevent the Commission from conducting periodic reviews of the market to assess compliance; and

(d) After three (3) years from the implementation of the Proposed JV, the Commission shall review the remedies to determine the relevance of their continuation.

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

Dated this 10th day of November 2025

Commissioner Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma **Commissioner Vipin Naugah**