



COMESA Competition Commission

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**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/05/21/2025

**Decision¹ of the 120th Meeting of the Committee Responsible
for Initial Determinations Regarding the Proposed
Acquisition of Controlling Interest by Pembani Remgro
Infrastructure Fund II in Mawingu Networks Limited**

ECONOMIC SECTOR: Information and Communication
Technology

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.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

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;

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;

Desirous of the overriding COMESA Treaty objective of strengthening and achieving convergence of COMESA Member States’ economies through the attainment of full market integration;

Determines as follows:

Introduction and Relevant Background

1. On 2 June 2025, the COMESA Competition Commission (“**the Commission**”) received a notification regarding the proposed acquisition by Pembani Remgro Infrastructure Fund II (“**PRIF II**”), a Special Purpose Vehicle (“**SPV**” or the “**primary acquiring firm**” and together with all its controlling entities and affiliates, the “**acquiring group**”) of Mawingu Networks Limited (“**Mawingu**” or the “**primary target firm**”, together with all undertakings controlled, the “**target group**”), pursuant to Article 24(1) of 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

SPV (the “primary acquiring firm”)

4. The parties submitted that the SPV is incorporated specifically for purposes of subscribing to shares in Mawingu. The SPV is a wholly owned subsidiary of PRIF II.
5. PRIF II is a recently established En Commandite Partnership domiciled in South Africa that operates as a close-ended fund. PRIF II is mandated to invest in equity, quasi-equity and equity-related investments in infrastructure (and related industry) companies and projects headquartered in, or whose business or operations are located or conducted primarily within Africa.
6. The parties submitted the acquiring group's² controlled subsidiaries and affiliates activities in the Common Market per Table 1 below.

Table 1: List of the acquiring group-controlled subsidiaries and affiliates activities in the Common Market

Member State	Name of portfolio company	Description of activities
Zimbabwe	ZimBorders Mauritius	Upgrading, operation and maintenance of border post infrastructure.
Democratic Republic of Congo (“DRC”) and Kenya	GridX Africa Development Limited	Develops and finances solar and energy storage solutions for businesses
Kenya	Icolo Limited (Kenya)	Provides data centre services. It designs, builds and operates cloud-neutral data centres to serve a broad spectrum of clients – telecom carriers, ISPs and peering points, IT and cloud providers, content providers, enterprise and financial services customers. These data centres are hyper-connected hubs and provide co-location services that include power, security, network access, redundancy, rack space, and precision cooling to its

² The acquiring group includes the SPV, all undertakings that will directly or indirectly control the SPV and all undertakings directly or indirectly controlled by such undertakings.



		customers. Icolo Kenya has two data centres located in Nairobi and Mombasa.
DRC, Kenya, Eswatini, Malawi, Mauritius, Seychelles, Uganda, Zambia and Zimbabwe	RCL Group Services Proprietary Limited	Food manufacturing company that produces a basket of branded and private label food products in multiple categories, with a focus on groceries, baking supplies and sugar
Comoros, DRC, Kenya, Madagascar, Malawi, Uganda, Zambia and Zimbabwe	RCL Foods Sugar and Milling Proprietary Limited	
Eswatini, Seychelles and Zambia	RCL Foods Consumers Proprietary Limited	Integrated poultry producer and sells a wide range of Rainbow Chicken branded products. Does not have physical presence but derived turnover in the Common Market.
Ethiopia, Zambia and Zimbabwe	Ubiquity Energy Proprietary Limited	Trades electricity and provides solutions for electricity utilities, traders, and power pools, specializing in energy trading, utility analytics, metering data management, and demand response.
Zimbabwe	Dark Fibre Africa Proprietary Limited	Builds, installs, manages and maintains a fibre network to transmit metro and long-haul telecommunications traffic, which is leased to its customers (telecommunication companies and ISP's) using an open-access wholesale commercial model.
Eswatini, Zambia and Zimbabwe	Juta and Company	Provides legal, regulatory, business and academic content.
Kenya	Blue Robot Proprietary Limited	A social media automation and technology company that allows brands to connect with consumers at scale, on a personal level. Derived turnover but does not have physical presence in Common Market.
Kenya, Mauritius, Zambia and Zimbabwe	Fieldbar Proprietary Limited	Makes a range of bespoke cooler boxes. Derived turnover but does not have physical presence in the Common Market.



DRC, Malawi, Rwanda, Seychelles and Zambia	Joya Brands Proprietary Limited	Produces a range of candy, toffees and chews. Derived turnover but does not have physical presence in the Common Market.
Zimbabwe	Bos Brand Proprietary Limited	Produces ready to drink ice teas and a hot tea range. Derived turnover but does not have physical presence in the Common Market.
Kenya	Capevin Holdings Proprietary Limited	Produces alcoholic beverages, primarily produces whisky. Derived turnover through Spirits exports bulk whisky but does not have physical presence in the Common Market.
Zambia	Servest Group	Provides facility management services.

Mawingu (the “primary target firm”)

7. The parties submitted that Mawingu is a company incorporated under the laws of Mauritius holding a Global Business License. Mawingu wholly-owns and controls Mawingu Interco ("**Mawingu Interco**") and Habari Node Limited ("**Habari**").³ Mawingu Interco is also incorporated under the laws of Mauritius and holds a Global Business License. Mawingu Interco wholly-owns and controls Mawingu Networks Limited (Kenya) ("**Mawingu Kenya**").
8. The parties submitted that Mawingu Kenya is an Internet Services Provider ("**ISP**") that provides internet connectivity services - fixed wireless access and fibre - to households and businesses in peri-urban and rural areas in Kenya.
9. The parties further submitted that Habari Node is an ISP that provides retail internet connectivity services, fixed wireless access and fibre to households and businesses in peri-urban and rural areas in Tanzania. Habari also provides other ICT based business solutions including, *inter alia*, domain registry services and internet exchange points. Habari does not operate in the Common Market.
10. The target group directly and indirectly procures data centre services from a data centre owned by the acquiring group in Kenya. Specifically, the target group directly acquires interconnection services from this data centre and sub-leases space within the same facility as a third party, otherwise known as colocation services.

Jurisdiction of the Commission

11. 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

³ The parties submitted that Habari is in the process of being transferred to Mawingu Interco. Upon completion, Habari will be directly controlled by Mawingu Interco and indirectly controlled by Mawingu.



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”.*

12. The undertakings concerned have operations in two or more Member States. The undertakings concerned derived a turnover of more than the threshold of USD 50 million in the Common Market and they each derived a turnover of more than USD 10 million in the Common Market. In addition, the parties do not 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

13. The notified transaction concerns the SPV acquiring 35% shareholding⁴, along with voting rights, in Mawingu through subscribing for convertible series A and B preference shares in Mawingu.

Competition Analysis

Consideration of the Relevant Markets

Relevant Product Market

14. Paragraph 7 of the Commission’s Guidelines on Market Definition states that a ***“relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer/customer, by reason of the products’ characteristics, their prices and their intended use”***.
15. The CID observed that the acquiring group’s controlled portfolio-investment companies were active in different sectors including data centre service while the

⁴ Information claimed as confidential by merging parties.



target group provided internet connectivity services such as fixed wireless access and fibre-to-households and businesses in peri-urban and rural areas in Kenya.

16. The CID observed that the target group procures data centre services from a data centre owned by the acquiring group in Kenya. Specifically, the target group directly acquires interconnection services from this data centre and sub-leases space within the same facility as a third party known as colocation services. The CID, therefore, observed that the proposed transaction raised vertical overlaps, and thus, it focused its assessment on the provision of data centre services and internet connectivity services where potential vertical effects are likely.

Provision of data centre services

17. The CID observed that data centres are dedicated facilities (sometimes purpose-built) in which companies house and operate Information Technology ("IT") equipment that support their business (such as servers and data storage). Data centres are facilities that lease colocation white space and power capacity to third-party customers on open, commercial terms in exchange for a fee.⁵ They usually have uninterrupted power supply and offer an environment with highly controlled temperature and humidity to ensure optimal performance of the stored IT equipment.
18. The CID observed that data centres are critical for businesses because they house the essential IT infrastructure needed to store, process, and manage vast amounts of data.⁶ They enable organizations to support daily operations, ensure data availability and reliability, facilitate cloud services and provide a secure environment for critical applications, after renting floor spaces in their data centre.
19. The CID noted from the parties' submission that providers of data centre services (such as Icolo Kenya) allow customers to use their data centres for a fee. Customers rent floor space in the data centre to install the customer's servers and other computing hardware and receive related services typically including cooling, power, network connectivity and physical security (colocation services). In addition, data centre customers typically receive interconnection services (that is connections via physical cable between the IT equipment of a data centre customer and that of another customer of the same data centre) and managed IT services (that is simple operations or maintenance tasks on behalf of data centre customers).
20. The CID observed that data centres may be distinguished as either carrier-neutral or carrier-owned facilities. Carrier-neutral are facilities not specifically affiliated to a connectivity or cloud vendor, with capacity available to all third-party customers, on equal commercial terms, without explicit or implicit constraints or favoritism.⁷

⁵ See <https://cms.d4dhub.eu/assets/East-Africa-Data-Center-Markets-Brief.pdf>, accessed 31 August 2025.

⁶ Ibid.

⁷ See <https://cms.d4dhub.eu/assets/East-Africa-Data-Center-Markets-Brief.pdf>, accessed 31 August 2025.



On the one hand, carrier-owned (carrier-specific) data centre is tied to a network provider/carrier, offering direct and specialised connectivity to that network but limiting choice and flexibility. On the other hand, carrier-neutral data centre hosts multiple network providers, allowing businesses to select the best carriers for their needs and has flexibility.⁸

21. The CID noted that carrier-owned and carrier-neutral data centres belong to the same product market.⁹ However, carrier-neutral facilities provide better connectivity, service and lower prices. Carrier-neutral data centres are operated independently of any network provider/carrier while carrier-owned data centres, are owned and operated by a network provider.
22. The CID noted from the parties' submission that Icolo Kenya (a subsidiary of the acquirer) is a carrier-neutral data centre and therefore cannot prohibit any customer from co-locating on its data centre. For purposes of the assessment of the transaction and given that there were no horizontal overlaps in the activities of the merging parties, the CID considered that further segmentation of the data centre services market was not necessary.
23. The CID further noted that the market can potentially be segmented as the provision of wholesale and retail data centre services since under the former a provider may offer larger capacity than under the latter and the contracts under the two may differ. Notwithstanding the possibility for identifying narrower markets, the CID considered that this segmentation would not alter the competitive assessment of the proposed transaction.
24. In light of the above and given that the acquiring group is active in the provision of data centre services, the CID considered this product to be a distinct market.

The provision of internet connectivity services

25. The CID observed that internet access is a service that provides connectivity to the internet for devices and networks.¹⁰ This service is offered by internet service providers using a range of technologies, including fixed broadband (digital subscriber line, cable, fiber optic), and wireless solutions (mobile/cellular, and satellite), connecting individuals and organizations to the global network.¹¹
26. The CID also observed that Cable is a form of broadband access that uses a cable modem to provide high-speed internet access.¹² Wireless internet connection does not require traditional telephone lines or physical cabling. Instead, it uses radio frequency signals to deliver internet access.

⁸ See <https://dgtlinfra.com/carrier-neutral-data-centers>, accessed on 31 August 2025.

⁹ See Case M.7678 - EQUINIX / TELECITY, para. 20

¹⁰ See https://en.wikipedia.org/wiki/Internet_access, accessed on 31 August 2025.

¹¹ <https://neosnetworks.com/resources/blog/what-is-internet-access-and-broadband/>, accessed on 31 August 2025.

¹² <https://www.geeksforgeeks.org/computer-networks/types-of-internet-connection/>, accessed on 31 August 2025.



27. The CID further observed that cellular networks offer wireless internet access through mobile devices, with service quality and speed dependent on network coverage and technology.¹³ Common standards include 3G and 4G, representing the third and fourth generations of mobile communication technologies respectively.
28. The CID observed that satellite internet, on the other hand, is primarily used in remote or rural areas where fiber and mobile networks are unavailable.¹⁴ It relies on satellites in Earth's orbit to provide connectivity, though it typically involves higher latency and variable speeds.
29. From the above, the CID noted that the internet connectivity services market could be segmented based on technology type, speed and geographic availability. Notwithstanding the potential for narrower market segmentations, the CID considered that this segmentation would not alter the competitive analysis of the proposed transaction. Accordingly, and for the purposes of competitive assessment of the current transaction, the CID considered the provision of internet services as a distinct product market.
30. Therefore, for the purposes of conducting a competitive assessment of the current transaction, the CID determined the relevant product markets as:
- a. the provision of data centre services; and
 - b. the provision of internet services.

Relevant Geographic Market

31. The COMESA Guidelines on Market Definition define the relevant geographic market as follows:
- "The relevant geographic market comprises the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different in those areas".*
32. The CID noted that the provision of internet and data centre services are mostly tied to physical infrastructure and national regulatory frameworks and are not easily substitutable across national borders.
33. From the demand-side, customers of data centre services, particularly internet service providers, require physical proximity to data centres for network connectivity and equipment installation. It is logistically and technically unfeasible

¹³ Ibid.

¹⁴ See <https://cybermfukoni.co.ke/blog/the-kenyan-internet-landscape-major-service-providers-and-what-you-need-to-know>, accessed on 1 September 2025.



for an internet service provider to rent data centre space in another country to serve its domestic customers.

34. This physical and technical constraints demonstrate that data centres mostly cater to customers within national borders and, even within specific localities. For instance, the CID noted that Icolo Kenya has data centre facilities¹⁵ in Nairobi (with teleport capacity of up to 10,000m²), and in Mombasa (with teleport capacity of 4,000m²).
35. Furthermore, the CID observed that regulatory frameworks governing internet service provision and the establishment of data Centre facilities vary across jurisdictions and may limit cross-border substitutability. For instance,¹⁶ the Kenya Data Protection Act (2019) in Kenya provides the core framework for data protection and localization in Kenya and cross-border data transfers of personal data are highly restricted, the Kenyan ICT Authority guidelines similarly require data hosting to be based in Kenya. In Ethiopia, Personal Data Proclamation of 2024 requires companies to host Ethiopian Citizen data within the country and provides strict regulation for cross-border data transfers.
36. The CID observed that these variations in licensing requirements, data protection laws, tariffs and exchange rate fluctuations contribute to heterogeneous competitive conditions across countries, making it difficult for foreign providers to enter and compete on an equal footing. As a result, the market structure for data centre and internet services tends to be country-specific, supporting the conclusion that each national market is distinct.
37. In view of the above, the CID considered that the relevant geographic scope for the provision of internet and data centre services was national, specifically Kenya.

Conclusion on Relevant Markets

38. Based on the foregoing assessment, and without prejudice to the CID's approach in similar future cases, the relevant markets were identified as:

(a) the provision of data centre services in Kenya; and

(b) the provision of internet services in Kenya.

Consideration of Substantial Lessening of Competition or "Effect" Test Market Shares and Concentration

39. The CID noted the submission from the parties that the estimated market shares for the players in the provision of data centre services in Kenya as per Table 2 below.

¹⁵ See <https://www.icolo.io/>, accessed on 1 September 2025.

¹⁶ See <https://cms.d4dhub.eu/assets/East-Africa-Data-Center-Markets-Brief.pdf>, accessed on 1 September 2025.



Table 2: Estimated market shares for the provision of data centre services in Kenya¹⁷

Competitors	Capacity (MW)	Estimate market share (%)
Africa Data Centres	7.5	38
IX Africa	4.5	23
<i>Icolo Kenya (the acquiring group)</i>	3.6	18
PAIX	0.7	4
Others	3.7	17
Total	20 MW	100

40. The CID observed there was an estimated 20 megawatts of data centre capacity available in Kenya of which the acquiring group (through Icolo Kenya) owned 3.6 megawatts.
41. The CID observed that the East African region was a key player in the sub-Saharan Africa (“**SSA**”) data centre market as it is home to some of the most promising market players, with around 25 data centres at Tier III standard or higher.¹⁸ Notably, 14 of these facilities were in Kenya and Ethiopia. With a combined capacity of nearly 30 megawatts in live critical IT load¹⁹ at the end of 2024, East Africa holds the second-largest data centre capacity in SSA, just behind Southern Africa. The region is also the second most penetrated by data centres relative to its population size.
42. The CID observed that the region’s data centre market was undergoing a significant construction boom to keep up with the growing demand for hosting capacity. As of early 2025, around eight commercial data centre facilities were under construction and were expected to be operational by the end of 2026, with another fourteen in the development pipeline with an estimated completion date by 2030.²⁰ This expansion is projected to add around 100MW of new data centre capacity to East African markets by 2030, nearly quintupling the region’s current critical load inventory.²¹ A large portion of this new capacity, nearly three-quarters, will be built in Kenya, fuelled by an expected influx of cloud hyperscaler infrastructure.

¹⁷Information claimed as confidential by merging parties.

¹⁸ See <https://cms.d4dhub.eu/assets/East-Africa-Data-Center-Markets-Brief.pdf>, accessed on 1 September 2025.

¹⁹ **live critical IT load** refers to capacity that is active, under lease or readily available for lease. See <https://cms.d4dhub.eu/assets/East-Africa-Data-Center-Markets-Brief.pdf>.

²⁰ Ibid.

²¹ Ibid, 11.



43. The CID noted the parties' submission as presented in Table 2 above, that Icolo Kenya's estimated market share for data centre services in Kenya is 18%. Although the top three firm held 79% of the market share, the market was competitive and the merged entity was unlikely to engage in anti-competitive conduct since its market share is below 30%. The merged entity will therefore not be in a dominant position post-merger. The CID further noted that Kenya's data centre market was competitive, with about a half-dozen providers offering a full range of co-location services to customers. Approximately 75% of the country's live critical IT load is managed by carrier-neutral providers such as Africa Data Centres, iColo, and iXAfrica.²² The CID also considered that the entry of new players like Ecocloud and Airtel's data centre unit, NXtra, is expected to intensify this competition.
44. The CID further observed that the Kenyan government also played a significant role in the data centre market, particularly by developing a facility within the Konza Technopolis special economic zone. Despite this, the CID further noted reports that the overall capacity is broadly distributed among multiple providers. The CID noted that currently, no single provider controls more than a third of Kenya's available data centre supply, indicating a healthy, competitive market landscape.²³
45. With respect to the market for the provision of internet services in Kenya, the CID noted the following estimated market shares (by internet subscriptions) for a list of providers in Kenya as submitted by Competition Authority of Kenya ("CAK").

Table 3: Estimate market shares for internet services providers in Kenya, as at 31st December 2024²⁴

IPS provider	Estimate market share (%)
Safaricom PLC	36.1
Jamii Telecommunications Ltd	23.6
Wananchi Group (Kenya) Ltd	15.4
Poa Internet Kenya Ltd	13.8
Vilcom Network Limited	3.2
<i>Mawingu (the target)</i>	2.8
Starlink Internet Services Kenya	1.1
Dimension Data Solutions East Africa Ltd	1.1
Liquid Telecommunications Kenya	0.9

²² Ibid.

²³ Ibid.

²⁴ See, Communications Authority of Kenya.



Vijiji Connect Ltd	0.7
Other Fixed Service Providers	1.3
Total	100

46. As shown in Table 3 above, the target firm's estimated market share was minimal, at approximately 2.8%, ranking sixth in the market. The CID noted that Safaricom PLC, Jamii Telecommunications Ltd, Wananchi Group (Kenya) Ltd, and Poa Internet Kenya Ltd are the biggest players.
47. The CID noted that the Kenyan market landscape for internet service provision was dynamic and rapidly evolving, offering a wide range of options (such as high-speed fiber, mobile data, and wireless broadband) for consumers and businesses. The CID further noted that the proposed transaction would not lead to any change in the existing structure of internet services market in Kenya since there was no horizontal overlap in the activities of the merging parties.
48. Accordingly, the CID observed that there will be no market share accretion as a result of the transaction and the merged entity will continue to face competitive pressure from other leading players.
49. The CID further noted from the parties' submission that Mawingu's demand for data centre services in Kenya is 0.0007 megawatts which was since it accounts for only 0.02% of the data centre services provided by Icolo Kenya and 0.0035% of the total data centre services provided in Kenya by Icolo Kenya and its competitors. Therefore, it was unlikely that the proposed transaction would raise any foreclosure concerns.
50. Accordingly, the CID observed that the merged entity would continue to face competition from numerous existing players. Thus, the proposed transaction was unlikely to negatively impact competition in the relevant markets.
51. The CID further assessed potential vertical effects of the transaction in relation to the acquiring group's involvement in provision of data centre services as follows.

Consideration of Vertical Effects

Input foreclosure

52. The CID observed that internet service providers require access to data centre to provide their internet services to their customers in the downstream market. The CID considered whether input foreclosure would arise where, post-merger, the acquiring group through Icolo Kenya would have the incentive and ability to restrict access to data centre services for rival internet service providers. The CID noted from the parties' submission that currently the target firm was procuring limited amount of data centre services in Kenya (0.0007 megawatts), which was



negligible. The target firm's data centre service accounted for 0.02% of the data centre services provided by Icolo Kenya (3.6MW) and 0.0035% of the total data centre services (20MW) provided by Icolo Kenya and its competitors in Kenya.

53. The CID observed that Mawingu's data centre services demand was insignificant. Therefore, foreclosing data centre spaces access to 99.98% of other customers would weaken the acquiring group's ability to recover its capital investments and achieve scale.
54. The CID further noted from the parties' submission that Edge Networks, Starlink, KCB, Google Kenya and Safaricom, are Icolo Kenya's top five largest customers by value of purchases of data centre services, in 2024. Restricting data centre services to these economically valuable customers would not be commercially viable for the acquiring group, as it would forego revenues from the other internet service providers. The CID further noted that the other competitor of the target firm will source these inputs from the acquiring group's competitors such as Africa Data Centres, IX Africa, PAIX and others, who currently command 82% of the data centre services supply market in Kenya. The CID thus considered that the proposed transaction was not likely to incentivize the merged entity to strengthen its position as a downstream internet service provider by leveraging on Icolo Kenya's position in the upstream market for the supply of data centre services.
55. The CID thus considered that the transaction was not likely to raise input foreclosure concerns.

Customer foreclosure

56. The CID observed that customer foreclosure would arise where, post-merger, Mawingu shifts its purchases of data centre from Icolo Kenya's competitors, such that Icolo Kenya's competitors is foreclosed from access to an important customer. The CID considered that foreclosure may arise only if the merger involved a customer with a substantial market power in the downstream market for the provision of internet services. Further, competition was not significantly impeded where competitors have a sufficiently large customer base.
57. The CID observed that even if Mawingu opted to exclusively utilize the data centre spaces of the acquiring group (Icolo Kenya) for its internet service provisions, no foreclosure of the acquiring groups' competitors could arise in view of the negligible (0.0035% of the total data centre services provided in Kenya) data centre services demand by the target firm on the internet services provision market in Kenya. The CID further noted that existing data centre service providers (potential competitors of Icolo Kenya) have the majority of customers, commanding above 99% of the market in Kenya.
58. The CID, as such, was satisfied that the proposed transaction was unlikely to raise customer foreclosure concerns.



Determination

59. The CID determined that the merger was not likely to substantially prevent or lessen competition in the Common Market or a substantial part of it, nor would it be contrary to public interest. The CID further determined that the transaction was unlikely to negatively affect trade between Member States.
60. The CID, therefore, approved the transaction.
61. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 23rd day of September 2025

Commissioner Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma

Commissioner Vipin Naugah

