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**Common Market for Eastern
and Southern Africa**

Case No. CCC/MER/07/27/2018

**Decision¹ of the Forty-Seventh (47th) Committee Responsible for
Initial Determination on the Application for Authorisation of the
Proposed Merger between Carlyle Sub-Saharan Africa Fund LifeCo
Holdings and AK Life Sciences Limited**

ECONOMIC SECTOR: Pharmaceuticals

6th October, 2018 –Johannesburg, South Africa

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 with ranges of figures or a general description.

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Information and Relevant Background

1. On 12th July 2018 the COMESA Competition Commission (hereinafter referred to as the “Commission”) received a notification for approval of a merger between Carlyle Sub-Saharan Africa Fund LifeCo Holdings (“CSSAF LifeCo”) and AK Life Sciences Limited (“AK Life”).
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations, 2004 (hereinafter referred to as the “Regulations”). Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the proposed 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. The Committee Responsible for Initial Determination (hereinafter referred to as “the CID”) established that the parties operated in more than one COMESA Member State. This therefore meant that the regional dimension requirement under Article 23(3) of the Regulations was satisfied and asserted jurisdiction on the Commission to assess the transaction.

The Parties

CSSAF Lifeco (the Acquirer)

4. The parties submitted that CSSAF LifeCo, was a private company limited by shares and incorporated under the laws of Mauritius. CSSAF LifeCo was a special purpose vehicle incorporated specifically to acquire a controlling stake in AK Life Science. The parties submitted that CSSAF LifeCo did not have any activities in the Common Market and was a controlled subsidiary of the Carlyle Sub-Saharan Africa Fund, a fund managed by affiliates of the Carlyle Group.
5. The parties submitted that in the Common Market, companies controlled by funds managed by affiliates of Carlyle had operations in Burundi, Comoros, the Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Eswatini, Uganda, Zambia and Zimbabwe.

AK Life (the Target)

6. The parties submitted that AK Life was a special purpose vehicle incorporated in Mauritius. The parties further submitted that in the Common Market, AK Life had operations in Burundi, Kenya, Rwanda and Uganda. It was active in the manufacture and sale and/or importation and distribution of parenteral drugs and the distribution of pharmaceutical products through its various subsidiaries

Nature of the Transaction

7. The parties submitted that the proposed transaction entailed the acquisition of control over AK Life by CSSAF LifeCo through the acquisition of 60% of the share capital of AK Life Sciences Limited from Kiboko Holdings Limited who shall retain the remaining 40% of the shareholding in AK Life.

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Competition Analysis

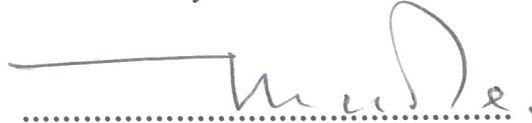
8. The CID defined the relevant market as the market for supply and distribution of pharmaceutical products. The CID observed that the transaction did not result in change in the structure of the relevant market since the parties' activities did not overlap pre-merger. The CID concluded that the merger was not likely to substantially prevent or lessen competition in the relevant market and that the merger had no effect of restricting trade between Member States.

Determination

The CID determined that the merger is not likely to have an appreciable effect on trade between Member States and that it did not negate the COMESA Treaty objective of full market integration. The CID therefore approved the transaction.

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

Dated this 6th day of October 2018



Commissioner Patrick O. Okilangole

(Chairperson)



Commissioner Brian M. Lingela

(Member)



Commissioner Thembelihle P. Dube

(Member)