



**THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA,  
COMESA**



**COMESA GUIDELINES ON MARKET  
DEFINITION**

**2<sup>ND</sup> APRIL 2019**

**PREPARED IN ACCORDANCE WITH THE  
COMESA COMPETITION REGULATIONS, 2004**

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## **DISCLAIMER**

The information contained in these Guidelines is for general guidance only. These Guidelines do not constitute legal advice and should not be relied upon as a statement of law relating to the Regulations. Stakeholders are encouraged to seek legal advice should they have any doubt about whether a case may qualify for referral under the Regulations.

## **INTERPRETATION**

In these Guidelines, any word or expression to which a meaning has been ascribed in the Regulations bears the same meaning as in the said Regulations unless the context indicates otherwise.

## **CITATION**

These Guidelines may be cited as: “The COMESA Guidelines on Market Definition of 2019”.

## DEFINITIONS

In these Guidelines unless the context provides otherwise:

“**Board**” means the Board of Commissioners as established by Article 12 of the Regulations;

“**Commission**” means the COMESA Competition Commission established by Article 6 of the Regulations;

“**Common Market**” means the Common Market for Eastern and Southern Africa (COMESA) established by Article 1 of the Treaty;

“**Competition**” means the striving or potential striving of two or more persons or organisations engaged in production, distribution, supply, purchase or consumption of goods and services in a given market against one another which results in greater efficiency, high economic growth, increasing employment opportunities, lower prices and improved choice for consumers;

“**Consumer**” includes any person -

- (a) who purchases or offers to purchase goods otherwise than for the purpose of resale but does not include a person who purchases any goods for the purpose of using them in the production and manufacture of any other goods or articles for sale; and
- (b) to whom a service is rendered;

“**Dominant position**” means a dominant position as stipulated in Article 17 of the Regulations;

“**Goods**” when used with respect to particular goods, includes any other goods that are reasonably capable of being substituted for them, taking into account ordinary commercial practice and geographical, technical and temporal constraints;

“**Market**” means a market in the Common Market and, when used in relation to any goods or services, includes a market for those goods or services and other goods or services that are substitutable for, or otherwise competitive with, the first-mentioned goods or services;

“**Merger**” means merger as defined in Article 23 of the Regulations;

“**Member State**” means a Member State of the Common Market;

“**Person**” means a natural or legal person;

“**Potential competition**” implies competition likely to occur as a result of entrance of new market players;

“**Regulations**” means the COMESA Competition Regulations;

“**Services**” includes the sale of goods, where the goods are sold in conjunction with the rendering of a service;

“**Trade**” includes any business, industry, profession or occupation relating to the supply or acquisition of “goods” or “services”;

“**Treaty**” means the Treaty establishing the Common Market for Eastern and Southern Africa;

“**Undertaking**” includes any “person”, public or private, involved in the production of, or the trade in, goods, or the provision of services.

## SECTION 1 – PREAMBLE

1. Market definition is a tool to identify and define the boundaries of competition between undertakings. It serves to establish the framework within which the Regulations are applied by the Commission. The main purpose of market definition is to identify in a systematic way the competitive constraints that the undertakings involved face.
2. A market is commonly understood to consist of both buyers and sellers of a product in a certain geographic area. However, the term 'relevant market' has a specific meaning for competition law purposes. The relevant market has two dimensions, namely relevant product market and relevant geographic market. The objective of defining a market in both its product and geographic dimensions is to identify those actual competitors of the undertakings involved that are capable of constraining those undertakings' behaviour and of preventing them from behaving independently of any effective competitive pressure.
3. It is from this perspective that the exercise of identifying the relevant market(s) makes it possible *inter alia* to calculate market shares that would convey preliminary indications about an undertaking's ability to behave independently on the market.
4. The definition of the relevant market in both its product and its geographic dimensions often has a decisive influence on the outcome of a competition case. By rendering public the procedures which the Commission will follow to reach a conclusion on the relevant market, the Commission aims to increase the transparency of its policy and decision-making in the area of competition policy. Depending on the characteristic and conditions of each case, the Commission will generally rely upon the criteria and appropriate evidence as set out in these Guidelines to assess the relevant market(s).
5. Increased transparency will also result in undertakings and their advisers being able to better anticipate the possibility that the Commission may raise competition concerns in an individual case. Undertakings could, therefore, take such a possibility into account in their own internal decision-making when contemplating, for instance, acquisitions, the creation of joint ventures, or the establishment of certain agreements. It is also intended that undertakings should be in a better position to understand what sort of information the Commission considers relevant for the purposes of market definition.
6. The Commission's interpretation of the 'relevant market' is without prejudice to the interpretation which may be given by the COMESA Court of Justice.

## **SECTION 2 - DEFINITION OF RELEVANT MARKET**

### ***DEFINITION OF RELEVANT PRODUCT MARKET AND RELEVANT GEOGRAPHIC MARKET***

7. For purposes of these Guidelines, a 'relevant product market` is defined as follows:

*“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, inter alia, the products' characteristics, their prices and their intended use”.*

8. For purposes of these Guidelines, a 'relevant geographic market` is defined 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”.*

9. The relevant market within which to assess a given competition issue is therefore established by the combination of the product and geographic markets.

## SECTION 3 - BASIC PRINCIPLES FOR MARKET DEFINITION

### COMPETITIVE CONSTRAINTS

10. Undertakings are subject to three main sources of competitive constraints: (i) demand substitution; (ii) supply substitution; and (iii) potential competition. From an economic point of view, for the definition of the relevant market, consumers' perception of the substitutability of products constitutes the most immediate and effective disciplinary force on the suppliers of a given product. An undertaking or a group of undertakings cannot have a significant impact on the prevailing conditions of sale, such as prices, if its customers are in a position to switch easily to available substitute products or to suppliers located elsewhere.
11. The competitive constraints arising from supply side substitutability other than those described in paragraphs 20 to 22 below and from potential competition are in general less immediate and in any case require an analysis of additional factors. As a result, such constraints are typically taken into account at a later stage during the competition analysis.

#### Demand Substitution

12. The starting point for the demand substitutability is to determine the range of products which are viewed as interchangeable or substitutable<sup>1</sup> by the consumer by taking into account, *inter alia*, the product's prices, characteristic and intended use. The Commission uses the SSNIP (Small but Significant Non-transitory Increase in Price)<sup>2</sup> test as a technique to assess the demand substitutability. The SSNIP test is employed to examine the degree to which the consumer may switch to purchase products in response to a hypothetical small but permanent increase in prices.
13. Conceptually, this approach means that, starting from the type of products that the undertakings involved sell ("focal product") and the area in which they sell them ("focal area"), additional products and areas will be included in, or excluded from, the relevant market depending on whether competition from these other products and areas sufficiently affects or restrains the pricing of the undertakings' products in the short term.
14. The question to be answered is whether a significant number of the undertakings' customers would switch to readily available substitutes or to suppliers located elsewhere in response to a hypothetical small (in the range 5 % to 10 %) but permanent increase in the focal products (or focal areas in the case of the geographic market), while the prices of other products (or in other areas) remain unchanged. If substitution were enough to make the price increase unprofitable because of the resulting loss of sales, additional substitutes and areas are included in the relevant market. This would be done until the set of products and geographic areas is such that small, permanent

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<sup>1</sup> The Guidelines use the terms 'interchangeable' and 'substitutable' interchangeably.

<sup>2</sup> The SSNIP is also commonly referred to as the Hypothetical Monopolist Test.

increases in relative prices would be profitable, i.e. buyers would not respond to the small but significant increase in price by switching to other products (or areas).

15. An equivalent analysis is applicable in cases concerning buyer markets, i.e. where the undertakings concerned act as a buyer in the market by acquiring goods and/or services from its suppliers for sale or use in the manufacture of other products for sale to (most likely) final consumers.
16. In this case, the SSNIP test serves to identify the alternative distribution channels or outlets through which the supplier can sell its products, in response to a small decrease in the price offered by the undertakings concerned.
17. A practical example of the SSNIP test in the traditional seller market can be provided by its application to a merger of, for instance, manufacturers of soft drinks. An issue to examine in such a case would be to decide whether different flavours of soft drinks belong to the same market. In practice, the question to address would be whether consumers of flavour A would switch to other flavours when confronted with a permanent price increase of 5 % to 10 % for flavour A. If a sufficient number of consumers would switch to, say, flavour B, to such an extent that the price increase for flavour A would not be profitable owing to the resulting loss of sales, then the market would comprise at least flavours A and B. The process would have to be extended in addition to other available flavours until a set of products is identified for which a price rise would not induce a sufficient substitution in demand.
18. Generally, the price to take into account will be the prevailing market price. This may however not be the case where the prevailing price has been determined in the absence of effective competition. In particular for the investigation of abuses of dominant positions, the Commission will also consider whether the dominant undertaking is already charging a price that is above the market determined price, such that an increase of 5 to 10% in the prevailing price may cause consumers to shift their consumption to other goods or services which would not be considered as substitutes under normal market conditions.
19. The above notwithstanding, the traditional SSNIP test may not always be the most appropriate tool for identifying relevant markets, in particular in the absence of evidence on customer substitutability and for markets characterised by network externalities or product differentiation. In such cases, the Commission will stand guided by international best practices and case precedents in the relevant markets to determine the required adaptations to the SSNIP test and/or other appropriate tools. It is important to recognise that instruments used by competition authorities and practitioners in their substantive assessment evolve with changing market dynamics and the tools used by the Commission will similarly evolve.

### **Supply Substitution**

20. Supply-side substitution may also be taken into account when defining markets in those situations in which its effects are equivalent to those of demand substitution in terms of effectiveness and imminence. Supply-side substitutability is concerned with

producer' preparedness to switch production capacity from manufacturing one product to another in response to a relative change in price, without incurring significant additional costs or risks in response to small and permanent changes in relative prices. When these conditions are met, the additional production that is put on the market will have a disciplinary effect on the competitive behaviour of undertakings involved. Such an impact in terms of effectiveness and imminence is equivalent to the demand substitution effect.

21. These situations typically arise when undertakings market a wide range of qualities or grades of one product; even if from a demand perspective the different qualities cannot be substitutable for any given use, if suppliers are able to manufacture and sell the different qualities, and production can be adjusted with negligible costs and in a short time-frame, the various qualities will be considered as a single product market. The same reasoning may lead to group different geographic areas.
22. A practical example of the SSNIP test to determine supply side substitutability can be provided within the example of the merger between manufacturers of soft drinks considered previously. From a supply perspective, the question that the Commission will seek to address is whether, and how quickly manufacturers of other flavours, or other types of drinks, would switch to producing flavour A in response to a permanent price increase of 5 % to 10 % for flavour A. If these other manufacturers can easily switch to producing flavour of a soft drinks without incurring significant costs and risks, then these other flavours and/or other types of drinks would be considered to be part of the same product market.
23. The results of the SSNIP test from a demand side and from a supply side may not always point in the same direction. In such instances, the Commission will, in general, place a greater emphasis on demand side substitutability in determining the relevant market.
24. It should be noted that when supply-side substitutability would entail the need to adjust significantly existing tangible and intangible assets, additional investments, strategic decisions or time delays, it will not be considered at the stage of market definition but will be considered as a potential barrier to entry.

### **Potential competition**

25. The third source of competitive constraint, potential competition, is not taken into account when defining markets, since the conditions under which potential competition will actually represent an effective competitive constraint depend on the analysis of specific factors and circumstances related to the conditions of entry. This analysis is carried out at a subsequent stage, in general once the position of the undertakings involved in the relevant market has already been ascertained, and when such position gives rise to concerns from a competition point of view.

## **SECTION 4 - EVIDENCE RELIED ON TO DEFINE RELEVANT MARKETS**

### ***THE PROCESS OF DEFINING THE RELEVANT MARKET IN PRACTICE***

#### **Product dimension**

26. There is a range of evidence permitting an assessment of the extent to which substitution would take place. In individual cases, certain types of evidence will be determinant, depending very much on the characteristics and specificity of the industry and products or services that are being examined. The same type of evidence may be of no importance in other cases. In most cases, a decision will have to be based on the consideration of a number of criteria and different items of evidence. The Commission follows an open approach to empirical evidence, aimed at making an effective use of all available information which may be relevant in individual cases. The Commission does not follow a rigid hierarchy of different sources of information or types of evidence.
27. The process of defining relevant markets may be summarized as follows: on the basis of the preliminary information available or information submitted by the undertakings involved, the Commission will usually be in a position to broadly establish the possible relevant markets within which, for instance, a concentration or a restriction of competition has to be assessed. In general, and for all practical purposes when handling individual cases, the question will usually be to decide on a few alternative possible relevant markets.
28. For instance, with respect to the product market, the issue will often be to establish whether product A and product B belong or do not belong to the same product market. It is often the case that the inclusion of product B would be enough to remove any competition concerns. In such situations, it is not necessary to consider whether the market includes additional products, or to reach a definitive conclusion on the precise product market. If under the conceivable alternative market definitions, the operation in question does not raise competition concerns, the question of market definition will be left open, reducing thereby the burden on undertakings to supply information.

#### **Geographic dimension**

29. The Commission's approach to geographic market definition might be summarized as follows: it will take a preliminary view of the scope of the geographic market on the basis of broad indications as to the distribution of market shares between the parties and their competitors, as well as a preliminary analysis of pricing and price differences at Member State level and COMESA level. This initial view is used basically as a working hypothesis to focus the Commission's enquiries for the purposes of arriving at a precise geographic market definition.
30. The reasons behind any particular configuration of prices and market shares need to be explored. Undertakings might enjoy high market shares in their national markets just because of the weight of the past, and conversely, a homogeneous presence of undertakings throughout the Common Market might be consistent with national or

regional geographic markets. The initial working hypothesis will therefore be checked against an analysis of demand characteristics (importance of national or local preferences, current patterns of purchases of customers, product differentiation/brands, etc.) in order to establish whether undertakings in different areas do indeed constitute a real alternative source of supply for consumers. In obtaining such information, the Commission may approach such stakeholders as consumers, suppliers, sector regulators, competitors, etc. The theoretical experiment is again based on substitution arising from changes in relative prices, and the question to answer is again whether the customers of the parties would switch their orders to undertakings located elsewhere in the short term and at a negligible cost.

31. If necessary, a further check on supply factors will be carried out to ensure that those undertakings located in differing areas do not face impediments in developing their sales on competitive terms throughout the whole geographic market. This analysis will include an examination of requirements for a local presence in order to sell in that area the conditions of access to distribution channels, costs associated with setting up a distribution network, and the presence or absence of regulatory barriers arising from public procurement, price regulations, quotas and tariffs limiting trade or production, technical standards, monopolies, freedom of establishment, requirements for administrative authorizations, packaging regulations, etc. In short, the Commission will identify possible obstacles and barriers isolating undertakings located in a given area from the competitive pressure of undertakings located outside that area, so as to determine the precise degree of market interpenetration at Member State level, COMESA level or global level.
32. The actual pattern and evolution of trade flows offers useful supplementary indications as to the economic importance of each demand or supply factor mentioned above, and the extent to which they may or may not constitute actual barriers creating different geographic markets. The analysis of trade flows will generally address the question of transport costs and the extent to which these may hinder trade between different areas, having regard to plant location, costs of production and relative price levels.

### **Market integration in the Community**

33. Finally, the Commission also takes into account the continuing process of market integration, in particular in COMESA, when defining geographic markets, especially in the area of mergers and joint ventures. The measures adopted and implemented in the internal market programme to remove barriers to trade and further integrate the Common Market cannot be ignored when assessing the effects on competition of a merger or a joint venture. A situation where national markets have been artificially isolated from each other because of the existence of legislative barriers that have now been removed will generally lead to a cautious assessment of past evidence regarding prices, market shares or trade patterns. A process of market integration that would, in the short term, lead to wider geographic markets may therefore be taken into consideration when defining the geographic market for the purposes of assessing mergers and joint ventures.

## **The process of gathering evidence**

34. When a precise market definition is deemed necessary, the Commission will often contact the main customers and the main undertakings in the industry to inquire into their views about the boundaries of product and geographic markets and to obtain the necessary factual evidence to reach a conclusion. The Commission might also contact the relevant professional associations, and undertakings active in upstream markets, so as to be able to define, in so far as necessary, separate product and geographic markets, for different levels of production or distribution of the products/services in question. It might also request additional information to the undertakings involved.
35. Where appropriate, the Commission will address written requests for information to the market players mentioned above. These requests will usually include questions relating to the perceptions of undertakings about reactions to hypothetical price increases and their views of the boundaries of the relevant market. They will also ask for provision of the factual information the Commission deems necessary to reach a conclusion on the extent of the relevant market. The Commission might also discuss with marketing directors or other officers of those undertakings to gain a better understanding on how negotiations between suppliers and customers take place and better understand issues relating to the definition of the relevant market. Where appropriate, they might also carry out visits or inspections to the premises of the parties, their customers and/or their competitors, in order to better understand how products are manufactured and sold.
36. The type of evidence relevant to reach a conclusion as to the product market can be categorized as follows:

### ***Evidence for defining markets - product dimension***

37. An analysis of the product characteristics and its intended use allows the Commission, as a first step, to limit the field of investigation of possible substitutes. However, product characteristics and intended use are insufficient to show whether two products are demand substitutes. Functional interchangeability or similarity in characteristics may not, in themselves, provide sufficient criteria, because the responsiveness of customers to relative price changes may be determined by other considerations as well. For example, there may be different competitive constraints in the original equipment market for car components and in spare parts, thereby leading to a separate delineation of two relevant markets. Conversely, differences in product characteristics are not in themselves sufficient to exclude demand substitutability, since this will depend to a large extent on how customers value different characteristics.
38. The type of evidence the Commission considers relevant to assess whether two products are demand substitutes can be categorized as follows:

#### ***A. Evidence of substitution in the recent past***

39. In certain cases, it is possible to analyse evidence relating to recent past events or shocks in the market that offer actual examples of substitution between two products.

When available, this sort of information will normally be fundamental for market definition. If there have been changes in relative prices in the past (all else being equal), the reactions in terms of quantities demanded will be determinant in establishing substitutability. Launches of new products in the past can also offer useful information, when it is possible to precisely analyse which products have lost sales to the new product.

40. There are a number of quantitative tests that have specifically been designed for the purpose of delineating markets. These tests consist of various econometric and statistical approaches estimates of elasticities and cross-price elasticities for the demand of a product, tests based on similarity of price movements over time, the analysis of causality between price series and similarity of price levels and/or their convergence. The Commission takes into account the available quantitative evidence capable of withstanding rigorous scrutiny for the purposes of establishing patterns of substitution in the past.

***B. Views of customers and competitors***

41. The Commission often contacts the main customers and competitors of the undertakings involved in its enquiries, to gather their views on the boundaries of the product market as well as most of the factual information it requires to reach a conclusion on the scope of the market. Reasoned answers of customers and competitors as to what would happen if relative prices for the candidate products were to increase in the candidate geographic area by a small amount (for instance of 5 % to 10%) are taken into account when they are sufficiently backed by factual evidence.

***C. Consumer preferences***

42. In the case of consumer goods, it may be difficult for the Commission to gather the direct views of end consumers about substitute products. Marketing studies that undertakings have commissioned in the past and that are used by undertakings in their own decision-making as to pricing of their products and/or marketing actions may provide useful information for the Commission's delineation of the relevant market. Consumer surveys on usage patterns and attitudes, data from consumer's purchasing patterns, the views expressed by retailers and more generally, market research studies submitted by the parties and their competitors are taken into account to establish whether an economically significant proportion of consumers consider two products as substitutable, also taking into account the importance of brands for the products in question.

***D. Barriers and costs associated with switching demand to potential substitutes***

43. There are a number of barriers to substitution and costs associated with switching to substitute products that might restrict the ability of consumers/customers to switch to a *prima facie* substitute product. In such instances, these products cannot be considered as reasonably substitutable in the eyes of the customers/consumers, and thus do not fall within the same product market. While it is not possible to provide an

exhaustive list of all the possible barriers to substitution and of switching costs, such barriers or costs typically include regulatory barriers or other forms of State intervention; need to incur specific capital investment or loss in current output in order to switch to alternative inputs/products; the location of customers, specific investment in production process, learning and human capital investment, retooling costs or other investments, and uncertainty about quality and reputation of unknown suppliers.

***E. Different categories of customers and price discrimination***

44. The extent of the product market might be narrowed in the presence of distinct groups of customers. A distinct group of customers for the relevant product may constitute a narrower, distinct market when such a group could be subject to price discrimination. This will usually be the case when two conditions are met: (a) is it possible to identify clearly which group an individual customer belongs to at the moment of selling the relevant products to him, and (b) trade among customers or arbitrage by third parties should not be feasible.

***Evidence for defining markets - geographic dimension***

45. The type of evidence the Commission considers relevant to reach a conclusion as to the geographic market can be categorized as follows:

***A. Past evidence of diversion of orders to other areas***

46. In certain cases, evidence on changes in prices between different areas and consequent reactions by customers might be available. Generally, the same quantitative tests used for product market definition might as well be used in geographic market definition, bearing in mind that international comparisons of prices might be more complex due to a number of factors such as exchange rate movements, taxation and product differentiation.

***B. Basic demand characteristics***

47. The nature of demand for the relevant product may in itself determine the scope of the geographic market. Factors such as national preferences or preferences for national brands, language, culture and life style, and the need for a local presence have a strong potential to limit the geographic scope of competition.

***C. Views of customers and competitors***

48. Where appropriate, the Commission will contact the main customers and competitors of the parties in its enquiries, to gather their views on the boundaries of the geographic market as well as most of the factual information it requires to reach a conclusion on the scope of the market when they are sufficiently backed by factual evidence.

***D. Current geographic pattern of purchases***

49. An examination of the customers' current geographic pattern of purchases provides useful evidence as to the possible scope of the geographic market. When customers purchase from undertakings located anywhere in COMESA on similar terms, or they procure their supplies through effective tendering procedures in which undertakings from anywhere in COMESA submit bids, usually the geographic market will be considered to be Common Market-wide.

***E. Trade flows/pattern of shipments***

50. When the number of customers is so large that it is not possible to obtain through them a clear picture of geographic purchasing patterns, information on trade flows might be used alternatively, provided that the trade statistics are available with a sufficient degree of detail for the relevant products. Trade flows, and above all, the rationale behind trade flows provide useful insights and information for the purpose of establishing the scope of the geographic market but are not in themselves conclusive.

***F. Barriers and switching costs associated to divert orders to undertakings located in other areas***

51. The absence of trans-border purchases or trade flows, for instance, does not necessarily mean that the market is at most national in scope. Still, barriers isolating the national market have to be identified before it is concluded that the relevant geographic market in such a case is national. Perhaps the clearest obstacle for a customer to divert its orders to other areas is the impact of transport costs and transport restrictions arising from legislation or from the nature of the relevant products. The impact of transport costs will usually limit the scope of the geographic market for bulky, low-value products, bearing in mind that a transport disadvantage might also be compensated by a comparative advantage in other costs (labour costs or raw materials). Access to distribution in a given area, regulatory barriers still existing in certain sectors, quotas and custom tariffs might also constitute barriers isolating a geographic area from the competitive pressure of undertakings located outside that area. Significant switching costs in procuring supplies from undertakings located in other countries constitute additional sources of such barriers.
52. On the basis of the evidence gathered, the Commission will then define a geographic market that could range from a local dimension to a global one, and there are examples of both local and global markets in past decisions of the Commission.
53. The paragraphs above describe the different factors which might be relevant to define markets. This does not imply that in each individual case it will be necessary to obtain evidence and assess each of these factors. Often in practice the evidence provided by a subset of these factors will be sufficient to reach a conclusion.

## **SECTION 5 - CALCULATION OF MARKET SHARE**

54. The definition of the relevant market in both its product and geographic dimensions allows the identification of suppliers and the customers/consumers active on that market. On that basis, a total market size and market shares for each supplier can be calculated on the basis of their sales of the relevant products in the relevant area. Typically, the total market size and market shares are often available from market sources, i.e. undertakings' estimates, studies commissioned from industry consultants and/or trade associations. When this is not the case, or when available estimates are not reliable, the Commission will usually ask each supplier in the relevant market to provide its own sales in order to calculate total market size and market shares.
55. If sales are usually the reference to calculate market shares, there are nevertheless other indications that, depending on the specific products or industry in question, can offer useful information such as, in particular, capacity, the number of players in bidding markets, units of fleet as in aerospace, or the reserves held in the case of sectors such as mining.
56. As a rule of thumb, both volume sales and value sales provide useful information. In cases of differentiated products, sales in value and their associated market share will usually be considered to better reflect the relative position and strength of each supplier.

## **SECTION 6- MISCELLANEOUS**

### **Review of the Guidelines**

58. These Guidelines may be reviewed from time to time to reflect changing market circumstances and law governing their implementation.

### **Entry into Force**

59. These Guidelines shall enter into force upon approval by the Board.

**APPROVED** by the Board at Mombasa, Kenya on the 2<sup>nd</sup> of April 2019.