



COMESA Competition Commission
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**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/06/23/201907/27/2019

**Decision¹ of the Sixty-Fourth (64th) Committee Responsible for
Initial Determination Regarding the Proposed Merger involving
Vivo Energy Investments B.V and Kuku Foods East Africa
Holdings Limited**

ECONOMIC SECTOR: Restaurants

9th October 2019

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

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Information and Relevant Background

1. On 1st August 2019, the COMESA Competition Commission (hereinafter referred to as the “**Commission**”) received a notification for approval of a merger Vivo Energy Investments B.V (“**Vivo**”) and Kuku Foods East Africa Holdings Limited (“**Kuku Holdings**”).
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations, 2004 (the “**Regulations**”). 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. The Committee Responsible for Initial Determination (the “**CID**”) established that the parties operate in more than one COMESA Member State and they meet the prescribed notification thresholds. This therefore means that the regional dimension requirement under Article 23(3) of the Regulations is satisfied and asserts jurisdiction on the Commission to assess the transaction.

The Parties

Vivo (the Acquirer)

4. It was submitted that Vivo distributes and markets, directly and indirectly, fuels and lubricants in countries across Africa. In the Common Market, the acquirer has operations in Kenya, Madagascar, Mauritius, Malawi, Rwanda, Tunisia, Uganda, Zambia, and Zimbabwe.

Kuku Holdings (the Target)

5. It was submitted that Kuku Holdings mainly operates quick service restaurants as franchises under the “KFC” brand in Kenya and Uganda. The parties further submitted that Kuku Foods Rwanda Limited is not yet operational.

Nature of the Transaction

6. The parties have submitted that the notified transaction involves the acquisition by Vivo of 50% of issued share capital in Kuku Foods Kenya Limited, Kuku Foods Uganda Limited and Kuku Foods Rwanda Limited.

Competition Analysis

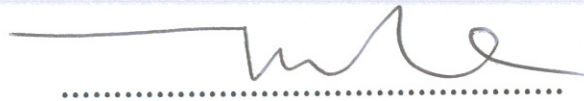
7. The CID defined the relevant markets as the markets for quick-service restaurants in the Common Market.
8. The CID observed that the relevant markets were characterised by a number of effective competitors. The proposed transaction would further not result in a change in market structure due to absence of market share accretion.



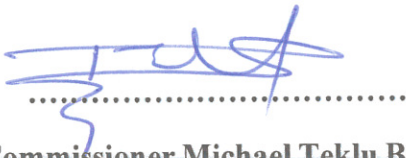
Determination

9. The CID determined that the merger is not likely to substantially lessen or prevent competition in the Common Market or any substantial part of it. The CID further determined that the transaction is not inimical to the single market imperative of the Treaty Establishing the Common Market for Eastern and Southern Africa. The CID therefore approved the transaction.
10. This decision is adopted in accordance with Article 26 of the Regulations.


Dated this 9th of October, 2019



Commissioner Patrick Okilangole (Chairperson)



Commissioner Michael Teklu Beyene



Commissioner Islam Tagelsir Ahmed Alhasan