



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

Ref No. CCC/ACBP/10/2/2019

20th November 2019

INFORMATION NOTE

COMESA Competition Commission Commences Investigation into allegations of anti-competitive conduct by Shoprite Holdings Limited and GS1 Kenya Limited

The COMESA Competition Commission (the “Commission”) wishes to inform interested stakeholders and the general public that on 8th November 2019, it commenced an investigation pursuant to Article 21 of the COMESA Competition Regulations (the “Regulations”) into potential violations of the Regulations by Shoprite Uganda and GS1 Kenya.

The Commission received a complaint alleging that Shoprite and GS1 Kenya have entered into agreement in terms of which suppliers who wish to merchandise their products in Shoprite supermarkets in Uganda must obtain their barcodes from GS1 Kenya. It is alleged that since February 2019, Shoprite has refused to receive products which do not have GS1 barcodes and has further directed its suppliers to obtain barcodes from GS1 Kenya.

The purpose of the Commission’s investigation is to determine

- 1) whether there exists an agreement(s) between Shoprite and GS1 Kenya;
- 2) whether the agreement(s) is likely to prevent, restrict or distort competition within the Common Market within the Meaning of Article 16 of the Regulations.
- 3) whether Shoprite acted unilaterally in the market in violation of Article 18 of the Regulations

About Shoprite

Shoprite considers themselves to be “*the largest supermarket retailer on the African continent...with thousands of stores and a network of distribution centres across 15*”

countries.”¹ In the Common Market, the Shoprite Group has several outlets as depicted in the table below:

| Member State² | Number of Outlets |
|---------------------------------|--------------------------|
| DRC | 1 |
| Eswatini | 37 |
| Kenya | 4 |
| Malawi | 7 |
| Madagascar | 10 |
| Uganda | 5 |
| Zambia | 49 |
| Total | 113 |

About GS 1 Kenya

GS1 Kenya is a not for profit organization offering globally acceptable numbers for Barcodes and RFID tags supporting supply chains. GS1 Kenya was formed in 1998 to implement the GS1 Standards in the region. The GS1 system is a series of standards designed to improve supply chain management.

It should be noted that the opening of an investigation does not presuppose that the conduct being investigated is anti-competitive or that Shoprite and GS1 have violated the competition laws. The Commission will, in accordance with the provisions of Part 3 of the Regulations, conduct an in-depth investigation of the alleged conduct and determine whether the parties have acted in contravention of the Regulations. In view of the foregoing, the Commission hereby gives notice to all interested stakeholders and the general public to submit their representations to the Commission by emailing them to smaseko@comesa.int. **All representations should be submitted to the Commission no later than 6th December 2019.**

If you wish to seek further details and/or clarifications on any aspect of the Commission’s investigation, you may contact Ms Siboniselizulu Maseko, Senior Analyst on Tel: +256 (0) 1 772 466 or email smaseko@comesa.int.

All representations submitted to the Commission will be treated with the strictest confidentiality and will only be used for the purposes of the investigation.

CCC Notice of Commencement of Investigations No. 1 of 2019

¹ See Our Group available at <https://www.shopriteholdings.co.za/>

² See Our Footprint in Africa available at <https://www.shopriteholdings.co.za/group.html>