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**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/12/45/2019

**Decision¹ of the Sixty-Ninth (69th) Committee Responsible for Initial
Determination Regarding the Proposed Acquisition by Groupe
Bernard Hayot of Vindémia Group SAS**

ECONOMIC SECTOR: Retail

9th March 2020

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.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 24th January 2020, the COMESA Competition Commission (hereinafter referred to as the “**Commission**”) received a notification for approval of a merger involving Groupe Bernard Hayot (“**GBH**”) and Vindémia Group SAS (“**Vindémia**”).
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

GBH (the Acquirer)

4. It was submitted that GBH, founded in 1960, has 11 000 employees and is present in 17 territories in the Caribbean (Martinique, Guadeloupe, Guyana, Cuba, Saint Lucia, Dominican Republic, Trinidad and Tobago), the Indian Ocean islands (Réunion, Mauritius), Metropolitan France, Africa (Morocco, Algeria, Ghana, Ivory Coast), China, and New Caledonia. GBH operates in three areas: mass retail; automotive distribution; and various industrial activities, including the production of yoghurt under the Danone brand in Réunion and the production and export of Rum in Martinique.

Vindémia (the Target)

5. It was submitted that Vindémia, founded in 1972, is a leading food retailer with hypermarkets, supermarkets and convenience stores in various territories, particularly in the Indian Ocean (Réunion, Madagascar, Mayotte and Mauritius) and enjoys a multi-format positioning (hypermarkets, supermarkets, cash and carry and convenience stores). It was submitted that Vindémia has 119 stores, of which 26 are in Réunion, 32 in Mayotte, 7 in Mauritius and 54 in Madagascar.

Nature of the Transaction

6. The parties submitted that in terms of the notified transaction, GBH will acquire all of the issued share capital of Vindémia.

Competition Analysis

7. The CID observed that there are no overlaps in the activities of the acquirer and the target in the Common Market. As a result, the CID focused on the activities of the target for purposes of identifying the relevant markets.
8. The CID considered that there was a separate product market for the retail of daily consumer goods mainly carried out by retail outlets such as supermarkets and hypermarkets (modern



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distribution channels), distinct from other retailers such as specialised outlets (butchers, bakers, kiosks or petrol service stations, etc.) which fulfil a specialist or convenience function, typically offering a range and variety of products narrower than that found in hypermarkets and supermarkets. The CID observed that the geographic scope of the market for the retail of daily consumer goods is likely to be local in scope, as delineated by the boundaries of a territory where the outlets can be reached easily by consumers. The CID defined the geographic scope of the retail market to a radius of 20- minutes driving time from the stores operated by the target in Mauritius and Madagascar respectively.

9. The CID noted that the target group also supplied products to other retailers. The CID considered that there exists a separate market for the wholesale of daily consumer goods, comprising the sale of daily consumer goods to customers such as retailers and other firms. The CID considered that the wholesale market should be regarded as national. While there are international branded goods which are available to retailers and other customers, these are typically procured from the local suppliers and distributors.
10. The CID thus defined the relevant markets as:
 - a) retail supply of daily consumer goods at local level (within a radius of 20 minutes driving time) in Mauritius and Madagascar; and
 - b) wholesale supply of food products at national level in Mauritius and Madagascar.
11. The CID observed that the transaction would not change market concentration given the absence of horizontal and vertical overlaps in the activities of merging parties in the Common Market pre-merger.

Determination

12. 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 unlikely to negatively affect trade between Member States. The CID therefore approved the transaction.
13. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 9th day of March, 2020

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Commissioner Thembelihle P. Dube Nee Dlamini (Chairperson)

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Commissioner Deshmuk Kowlessur

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Commissioner Brian M. Lingela