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**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/10/40/2019

**Decision¹ of the Seventieth (70th) Committee Responsible for Initial
Determination Regarding the Proposed Acquisition by PepsiCo, Inc. of
Pioneer Food Group Limited**

ECONOMIC SECTOR: Food and Beverages

10th 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 Where possible, the information omitted has been replaced by ranges of figures or a general description.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 19th November 2019, the COMESA Competition Commission (hereinafter referred to as the “**Commission**”) received a notification for approval of a merger involving PepsiCo, Inc. (“**PepsiCo**”) and Pioneer Food Group Limited (“**Pioneer Foods**”).
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

PepsiCo (the Acquirer)

4. The parties submitted that PepsiCo is a public company incorporated under the laws of the United States. PepsiCo has a primary listing on the Nasdaq Stock Market and a secondary listing on the SIX Swiss Exchange. PepsiCo supplies various packaged foods and beverages worldwide. Within the Common Market, the activities of PepsiCo and its wholly-owned subsidiary Simba Proprietary Limited (“**Simba**”) include the sale of a number of ready-to-eat savoury snack products; breakfast cereals; inputs for the manufacture of PepsiCo branded carbonated soft drinks (CSDs) as well as the manufacture and sale of PepsiCo branded CSDs in Egypt. In the Common Market, PepsiCo derives turnover in the following Member States: the Democratic Republic of Congo, Djibouti, Egypt, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Seychelles, Sudan, Tunisia, Uganda, Zambia, and Zimbabwe.

Pioneer Foods (the Target)

5. The parties submitted that Pioneer Foods is a public company incorporated under the laws of South Africa. Pioneer Foods manufactures and supplies food and beverages to various customers in South Africa and exports its products to countries worldwide, including to various Member States. Insofar as the activities of Pioneer Foods in the Common Market are concerned, it supplies various grocery products, beverage (non-CSDs) and breakfast cereal products. In the Common Market, Pioneer Foods derives turnover in the following Member States: the Democratic Republic of Congo, Eswatini, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Tunisia, Uganda, Zambia, and Zimbabwe.

Nature of the Transaction

6. The parties submitted that the proposed transaction involves an acquisition of the entire issued shares of Pioneer Foods by Simba.

Competition Analysis

7. The CID observed that an overlap exists in respect of the parties’ activities in the sale of breakfast cereal products and fruit juices. With regard to the breakfast cereals segment, the CID observed

that cereals are made of different grains – for instance corn, wheat, oats or rice – and other ingredients such as nuts, dried fruit, sweeteners and other additives that are processed into the final product. The products can take various forms such as extruded, flaked, shredded, gun-puffed or oven-puffed cereals or muesli. The CID considered that from a demand side, consumers typically switch across different types of cereals. For purposes of this transaction, the CID considered the ready-to-eat cereals market as the relevant product market.

8. With regard to the juices segment, the CID considered that a distinct market could be identified in relation to long-life fruit juices, as from the end-customer's perspective, fruit juices are considered as healthier products compared to other types of non-carbonated drinks. Further, fruit juices are typically not in the same price range as other drinks such as bottled water or ready-to-drink tea.
9. The CID thus defined the relevant market as follows:
 - a. upstream supply of (i) ready-to-eat breakfast cereals; and (ii) long-life fruit juices in Africa; and
 - b. downstream distribution of (i) ready-to-eat breakfast cereals; and (ii) long-life fruit juices at national level.
10. The CID observed that the transaction was unlikely to result in the strengthening or creation of dominance in the relevant market, in view of the presence of numerous brands on the relevant market.

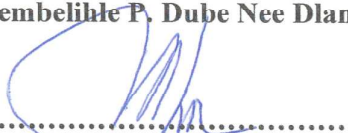
Determination

11. 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 also determined that the transaction was not inimical to the single market imperative; one of the fundamental objectives of the Treaty establishing the Common Market for Eastern and Southern Africa. The CID therefore approved the transaction.
12. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 10th 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