



Common Market for Eastern
and Southern Africa

The COMESA Competition Commission Seeks Public Comments on its Draft Guidelines

The COMESA Competition Regulations, 2004 (the Regulations) were adopted by the COMESA Council of Ministers in December 2004 in accordance with Article 55(3) of the Treaty establishing the Common Market for Eastern and Southern Africa (COMESA). The Regulations entered into force by virtue of Article 12(1) of the COMESA Treaty in December 2004 upon their publication in the COMESA Official Gazette Vol. 9 No.2 as Decision No. 43 in Notice No 2 of 2004. Thereafter, the COMESA Competition Commission (the Commission) was established under Article 6 of the Regulations and became operational on 14th January 2013.

The Commission is charged with the administration and enforcement of the Regulations. The main functions of the Commission are to prohibit, monitor and investigate anti-competitive practices, regulate mergers and other forms of acquisitions in the Common Market and mediate disputes between the Member States concerning anti-competitive conduct. The Regulations empower the Commission, in respect of trade between Member States, to monitor, investigate, detect, make determinations or take action to prevent, inhibit and/or penalise undertakings whose business appreciably restrains competition within the Common Market. In conducting its investigations, the Commission is expected to respect the principles of natural justice which include the right to be heard and right of defence.

As part of its ongoing efforts to clarify and publish guidance about its enforcement policies and practices, the Commission has prepared three draft instruments to provide guidance on the factors that guides its determination of administrative fines and penalties, the processes and procedures that it follows when conducting hearings and the stages that it follows when negotiating and concluding settlement agreements or arrangements with the parties being investigated for infringing the Regulations.

The Commission is therefore seeking public comments on the following draft guidelines to the Regulations:

- i. [draft Guidelines on Fines and Penalties;](#)
- ii. [draft Guidelines on Settlement Procedures;](#) and
- iii. [draft Guidelines on Hearing Procedures.](#)

In the preparation of these draft Guidelines, the Commission made wide consultations with the various stakeholders in the Member States. The Commission further consulted existing literature on the subject matter including the European Union (EU) competition regulations and guidelines, the prevailing regulations and rules of Member States and competition

regulations of most competition systems in Europe. The consultation and reference to other similar instruments was for purposes of guidance as the final Guidelines should be contextualized to the Common Market environment and the spirit of the COMESA Regulations and Rules.

With your assistance with comments, further inputs and advice, the Commission is convinced that the final Guidelines will address most of the challenging competition problems faced in the Common Market. Interested parties are kindly requested to submit their comments at their earliest convenience but no later than **Friday, 12th November 2021** to the undersigned:

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