COMESA Competition Commission
COMESA Competition Commission
Kang'ombe House, 5th Floor
P.O. Box 30742
Lilongwe 3, Malawi
Tel: +265 111 772 466
Email- compcom@comesacompetition.org

Common Market for Eastern and Southern Africa

Case File No. CCC/MER/01/02/2024

Decision[1] of the 106th Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Acquisition of up to 35% of the shareholding in Hennos Holdings Limited by Hollard International (Proprietary) Limited for an indirect minority stake of up to 25.9% in Apollo Investments Limited

ECONOMIC SECTOR: Insurance

COMESA COMPETITION COMMISSION
04 MAY 2024

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

The Committee Responsible for Initial Determinations,

Cognisant of Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa (the "**COMESA Treaty**");

Having regard to the COMESA Competition Regulations of 2004 (the "**Regulations**"), and in particular Part 4 thereof;

Mindful of the COMESA Competition Rules of 2004, as amended by the COMESA Competition [Amendment] Rules, 2014 (the "**Rules**");

Conscious of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation of 2015;

Recalling the overriding need to establish a Common Market;

Recognising that anti-competitive mergers may constitute an obstacle to the achievement of economic growth, trade liberalization and economic efficiency in the COMESA Member States;

Considering that the continued growth in regionalization of business activities correspondingly increases the likelihood that anti-competitive mergers in one Member State may adversely affect competition in another Member State,

Desirability of the overriding COMESA Treaty objective of strengthening and achieving convergence of COMESA Member States' economies through the attainment of full market integration,

Having regard to the COMESA Merger Assessment Guidelines of 2014,

Determines as follows:

Introduction and Relevant Background

1. On 8 February 2024, the COMESA Competition Commission (the "**Commission**") received a notification for approval of a merger involving Hollard International (Proprietary) Limited ("**Hollard**" or "**the Acquirer**") and Hennos Holdings Limited ("**Hennos**" or "**the Direct Target**"), pursuant to Article 24(1) of the Regulations

2. 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. Pursuant to Article 13(4) of the Regulations, there is established a Committee Responsible for Initial Determinations, referred to as the CID. The decision of the CID is set out below.

The Parties

Hollard

4. Hollard is a limited liability company incorporated under the laws of South Africa. The main shareholder of Hollard is Hollard Holdings Luxembourg S.A.R.L. ("**HHL**"). The Acquirer, HHL and all the entities under their common control are together referred to as the 'acquiring group'. The acquiring group operates both through subsidiaries and exports of its services in the Common Market.

5. Table 1 below lists the acquiring group's controlling undertakings that are incorporated in the Common Market:

Table 1 – Acquiring group's-controlled companies incorporated in the Common Market

Name of Company	Member State of Incorporation	Activities
Magenta Sky Ltd	Mauritius	Global business company
Hollard Zambia Holdings	Zambia	Holding company for the life assurance and non-life insurance business
Hollard Insurance Zambia Limited	Zambia	Non-life insurance business
Hollard Life Assurance (Zambia) Limited	Zambia	Life assurance business

6. Table 2 below lists the acquiring group's controlled undertakings that are incorporated outside the Common Market which have generated turnover from the Common Market:

Table 2 – Acquiring group's-controlled companies generating turnover in the Common Market

Name of Company	Member State where turnover in generated	Activities
Manzillo Insurance (PCC) Limited	DRC, Kenya, Mauritius, Uganda, Zambia and Zimbabwe	Non-life reinsurance business (health and group risk)

7. The parties have submitted that the acquiring group offers the following classes of life insurance in Zambia: group life; funeral cover; savings; medical cover; and credit life.

8. The parties further submitted that the acquiring group offers the following classes of non-life insurance in Zambia: travel insurance; motor insurance (comprehensive

car insurance and third-party car insurance); property insurance; personal and general liability insurance; marine insurance, bonds & guarantee insurance and specialist sector insurance (including agriculture, construction & engineering, hospitality & tourism).

Hennos

9. Hennos, the Direct Target, is a limited liability company incorporated under the laws of the Republic of Kenya. Being a non-operating holding company, Hennos does not have any operations in Kenya or in any other Member State. Hennos is a shareholder in Apollo Investments Limited (the "**Indirect Target**") which is a non-operating insurance holding company that has several subsidiaries operating in Kenya and Uganda, as reflected in Table 3 below:

Table 3 – Activities of the Indirect Target in the Common Market

Name of Company	Member State	Activities
APA Insurance Limited	Kenya	Underwrites general insurance risks such as motor, agriculture, marine, and individual and family health insurance.
APA Life Assurance Limited	Kenya	Provides life insurance and pension plans. Its products include employee benefits insurance such as group life assurance, last expense, disability cover, and individual pension plans, unit-linked investment plans, education plans and other similar products.
Apollo Asset Management Company Limited	Kenya	Fund management and investment advisory services
Gordon Court Limited	Kenya	Owns a commercial property
Apollo Holdings Limited	Kenya	Owns a property
Apollo Apartments Limited	Kenya	Owns a property
APA Microinsurance Limited	Kenya	Awaiting licence to underwrite micro and inclusive insurance products such as micro property insurance, APA Hospitalisation Cash, funeral cash benefit, and personal accident risk cover
APA Insurance (Uganda) Limited	Uganda	Underwrites general insurance risks such as motor, agriculture, individual and family health insurance

10. The Direct Target, the Indirect Target and all the entities under common control will together be referred to as the "**target group**".

Jurisdiction of the Commission

11. Article 24(1) of the Regulations requires 'notifiable mergers' to be notified to the Commission. Rule 4 of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation (the "**Merger Notification Thresholds Rules**") provides that:

Any merger, where both the acquiring firm and the target firm, or either the acquiring firm or the *target firm, operate in two or more Member States, shall be notifiable if:*

a) the combined annual turnover or combined value of assets, whichever is higher, in the Common Market of all parties to a merger equals or exceeds USD 50 million; and

b) the annual turnover or value of assets, whichever is higher, in the Common Market of each of at least two of the parties to a merger equals *or exceeds USD 10 million, unless each of the parties to a merger achieves at least two-thirds of its aggregate turnover or assets in the Common Market within one and the same Member State.*

12. The undertakings concerned have operations in two or more Member States. The undertakings concerned held a combined value of assets in excess of the threshold of USD 50 million in the Common Market and each of the parties held an asset value of more than USD 10 million in the Common Market. In addition, both of the parties did not hold more than two-thirds of their aggregate COMESA-wide value of assets from one and the same Member State.

13. The Commission was thus satisfied that the transaction constitutes a notifiable transaction within the meaning of Article 23(5)(a) of the Regulations.

Details of the Merger

14. The Proposed Transaction concerns the proposed acquisition by the acquirer of up to 35% of the shareholding in the Direct Target resulting in the Acquirer obtaining an indirect stake of up to 25.9% in the Indirect Target.

15. Pursuant to the Proposed Transaction, the Acquirer will initially acquire up to 30.9% shareholding in the Direct Target, which will result in the acquisition of an indirect minority controlling stake of 20% in the Indirect Target which will result in a change of control in the Indirect Target and the Indirect Target's subsidiaries.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

c) [redacted].

[redacted]

[redacted]

[redacted]

c) [redacted]

18. The parties submitted that for the Acquirer, the Proposed Transaction serves as a strong investment in the vibrant insurance services business in East Africa. The parties further submitted that the Proposed Transaction will further grow and enhance the business of the target group and assist in driving profitability, which is aimed at steering the target group on a sustainable growth trajectory into the future. The Acquirer's investment in the target group will give it a strategic ability to develop in the market.

Competition Assessment

Consideration of the Relevant Markets

Relevant Product Market

19. Paragraph 7 of the Commission's Guidelines on Market Definition states that a *"relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer/customer, by reason of the products' characteristics, their prices and their intended use".*

20. The acquiring group provides life and general insurance services in Zambia and non-life reinsurance services in Kenya, including to the target group. Further, the acquiring group offers the following classes of life insurance in Zambia: group life, funeral cover, savings, medical cover and credit life.

21. The acquiring group also offers the following classes of non-life insurance in Zambia: travel insurance, motor insurance (comprehensive car insurance and third-party car insurance), property insurance, personal and general liability insurance, marine insurance, bonds & guarantee insurance and specialist sector insurance (including agriculture, construction & engineering, hospitality & tourism).

22. The target group on the other hand provides life and general insurance in Kenya. The target offers the following classes of life insurance in Kenya: group life & credit life; individual life insurance; annuity products and management of pension schemes. Further, the target offers the following classes of non-life insurance Kenya: medical insurance; motor insurance, marine insurance; liability cover; fire insurance; engineering insurance; aviation insurance; personal accident insurance; theft insurance; workmen's compensation; asset management and real estate. The target group is also expected to start supplying micro-insurance services soon in Kenya.

23. The target group only provides general insurance services in Uganda.

24. The CID observed that the products of the merging parties overlap horizontally in the provision of group life cover and non-life insurance services (motor insurance and marine insurance) and vertically in the provision of non-life reinsurance services by the acquiring group to the target group.

Provision of insurance services

25. The provision of insurance services refers to the provision of an insurance cover by an insurance provider for the payment of policy benefits against a specified risk in exchange for a premium.

26. The CID has held that insurance services entail the provision by a company of guarantee for compensation for specified loss, damage, illness, or death in return

for payment of a specified premium[2]. Provision of insurance services can be distinguished based on three broad categories, namely life insurance, non-life/general insurance, and reinsurance services based on the intended purpose, characteristics, and prices.

Life insurance v. non-life insurance

27. Life insurance refers to a long-term insurance agreement between the insured and insurance company[3] for the coverage against the risk of death whether in the form of assurance on survival to a stipulated age; death; or insurance against personal injury and disability resulting from accident or sickness.[4]

28. Non-life insurance is a short-term insurance agreement, of a duration of one year or less, and are also referred to as general insurance covers. The risks covered by non-life insurance contracts are diverse and can relate to risks such as accidents, fire, damage to property, motor vehicle liability, aircraft liability, miscellaneous financial loss and legal expenses[5]. It is an agreement between customer and insurance company to cover for loss or damage of property and includes motor vehicle insurance, home insurance and health insurance[6].

29. The CID has previously distinguished life and non-life insurance products as separate markets in view of the likelihood of the risk materialising and the duration of the agreement[7].

30. The CID has held that life insurance is a separate product market as, contrary to non-life insurance, it is a long-term insurance agreement which requires the payment of regular premiums over several years; in most cases a policy is written in the certainty that a claim will subsequently be made (on death or other maturity), and often involves a substantial investment element[8]. The CID has further held that non-life insurance, on the other hand, are claimed upon loss or damage of an insured property and are typically contracted for shorter periods[9]. The CID concluded that from a demand side, a person looking for a life insurance cover would not be able to switch to a product under the non-life insurance segment

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2 Decision of the Eighty-Fifth (85th) Meeting of the CID regarding the Proposed Acquisition by Allianz SE of certain assets relating to Aetna Global Benefits (UK) Limited's International Private Health Insurance Business, dated 2nd August 2022

3 *Ibid*

4 Decision of the Ninety-Third (93rd) Meeting of the CID regarding the Proposed Merger involving Sanlam Limited and Allianz SE

5 *Ibid*

6 *Ibid*

7 *Ibid*

8 *Ibid*

9 *Ibid*

given that in the unfortunate event of death, the person's beneficiaries would not be compensated by using a motor, home or health insurance policy[10].

31. The CID considers that each of the life and non-life insurance market can be further segmented according to the risk being covered. The CID notes that the life insurance market could further be segmented into protection products, savings and investment products, and pension products[11]. The CID observes, however, that there is not sufficient information about customer preferences in COMESA to conclude definitely on a narrower segmentation. In line with its practice[12], the CID is of the view that no further segmentation of life insurance market is required. The adoption of a single market for life insurance products will not have a material impact on the competitive assessment given that the merging parties do not operate in the same geographic markets, as discussed further below.

32. In relation to the non-life segment, from a demand perspective, non-life insurance services can be segmented into different types of sub-markets as each product covers a distinct risk. The risk which is covered is reflected in the product's distinct characteristics, premiums and purposes. In view of the overlap in the activities, the CID adopted the classification of non-life insurance policies in line with its previous decisional practice, namely cover risks relating to (i) motor insurance; and (ii) marine insurance.

33. Motor vehicle insurance includes insurance cover for cars, trucks, motorcycles, and other road vehicles. In most Member States, it is regulated in accordance with the road traffic rules/acts, which makes it compulsory for all users of motor vehicles to have minimum cover to indemnify them, at least, whenever they cause damage to property. Marine insurance is a contract that requires the insurance provider in exchange for a premium insurance to provide protection to goods, freight and other interests against loss or damage whilst being transported by rail, road, sea and/or air from the port of loading to the final destination.

34. Motor insurance provides indemnity against damage caused to own or third-party motor vehicle whereas marine insurance covers goods moving from one point to another, indicating that the two insurance covers have distinct characteristics and purposes.

35. There is a high degree of supply-side substitutability between the different types of non-life insurance covers. This is because only one license is required from the regulator to provide general insurance covers. The insurance company may then, depending on its appetite for risks, design general insurance covers. This notwithstanding, the CID ultimately considered that, from a demand side

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[10] *Ibid*
[11] *Ibid*
[12] *Ibid*

perspective, the purpose of the different types of general insurance are clearly distinct, and the absence of demand side substitutability would limit the effects of any supply side substitution. For instance, assuming a small but significant increase in the premium for a motor vehicle cover, a customer is not likely to shift their demand to a marine insurance cover being provided at a lower premium since that customer's purpose for motor vehicle insurance cover is to get compensation in case of accidents.

Reinsurance

36. Reinsurance refers to the provision of an insurance cover to another insurer for some or all of the liabilities assumed under its insurance policies, through which the risks insured by the insurer are transferred to the reinsurer[13]. Reinsurance is therefore available only to insurance providers as compared to insurance being available to end customers. The characteristics of reinsurance, its price and intended use makes it distinct from life and non-life insurance. Similar to insurance, reinsurance can also be categorised into reinsurance for life insurance and reinsurance for non-life. The CID is of the view that for the purposes of the transaction, no further segmentation of the reinsurance market is required in as much as no competition concerns will arise under any narrower segment of the reinsurance market.

37. Based on the foregoing assessment and without prejudice to the CID's approach in similar future cases, the relevant product markets are considered as the respective provision of:

   a. *reinsurance;*
   b. *group life insurance;*
   c. *non-life insurance;*
   d. *motor insurance; and*
   e. *marine insurance.*

Relevant Geographic Market

38. The Commission's Guidelines on Market Definition define the relevant geographic market as comprising:

> ***"...the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous, and which can be distinguished***

[13] *Ibid*

from neighbouring areas because the conditions of competition are appreciably different in those areas"[14].

39. The CID notes that the acquirer supplies its life and non-life services in Zambia and its reinsurance services in Kenya. The target supplies life and non-life services in Kenya and non-life insurance services in Uganda.

40. In line with its practice, the CID considers that the relevant geographic market for life and non-life insurance be national as a result of distribution channels, established product brands, fiscal constraints for cross-border insurance services and differing regulatory systems across the various Member States[15].

41. Insurance companies operate within a highly regulated framework and they require the relevant license from the national regulator. The license allows for operations within the national boundaries. It is for this reason that multinational companies have to incorporate subsidiaries in a member state to be able to provide insurance services within that Member State. The CID further considers that from a demand perspective, that it is unlikely that the majority of individual customers would be able or willing to substitute purchase of a policy from their place of residence to another country in response to a small but significant change in the price of the insurance in their place of residence.

42. The CID has previously considered that the geographic market for international corporate insurance customers is likely to be wider than national. However, this could not be sustainable and may only apply to a small sample of clients which may not be representative of how the majority of ordinary customers may respond to such a scenario[16]. Further, the service providers are required to distribute their products in the Common Market through local partners which hold the distribution license within these territories, thus limiting the market to national.

43. Based on the operations of the merging parties, the CID considers that the relevant geographic markets for life and non-life insurance (including motor and marine insurance) are respectively Kenya, Uganda and Zambia.

44. With respect to reinsurance, the CID considers that the market is likely to be wider than national. This is because the pooling of risks is done on a scale which is usually wider than national. The CID notes that the majority of reinsurance companies operate in the Common Market through exports. Reinsurance companies providing their services to insurance companies incorporated in the Common Market are mainly from South Africa and Europe. For this reason, the CID is of the view that the relevant geographic market for reinsurance is global.

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[14] Paragraph 8
[15] *Ibid*
[16] *Ibid*

Conclusion of Relevant Market Definition

45. For the purposes of assessing the proposed transaction, and without prejudice to its approach in future similar cases, the CID has identified the relevant markets as the:

a) **Market for life insurance in Kenya and Zambia;**

b) **Market for non-life insurance in Kenya, Uganda and Zambia;**

c) **Market for motor insurance in Kenya, Uganda and Zambia;**

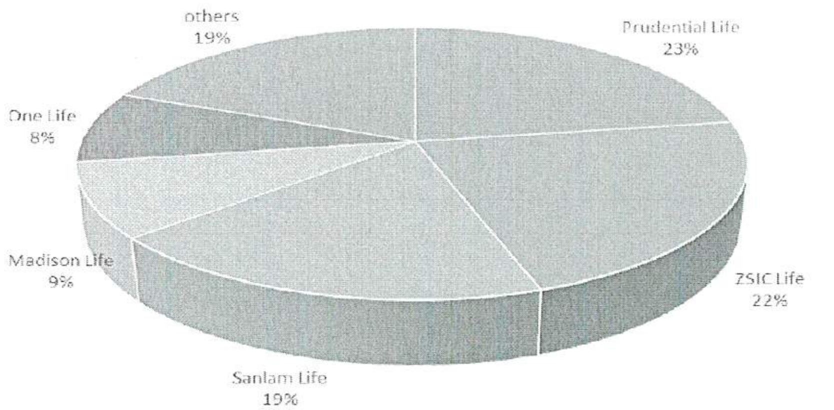
d) **Market for marine insurance in Kenya, Uganda and Zambia; and**

e) **Global market for reinsurance.**

Market Shares and Concentration

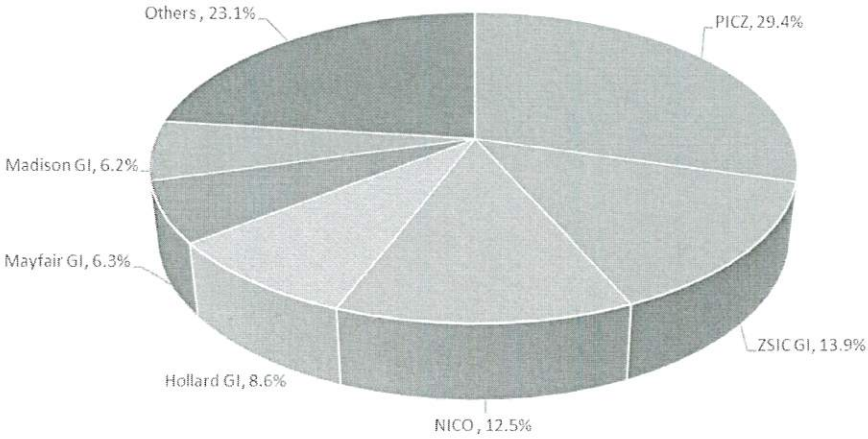
46. The market shares of the companies providing long-term insurance services and general insurance business in Zambia for the year 2022, based on gross premiums are reflected in figure 1 and 2 below[17].

Figure 1: Market Shares of Players in the Long-Term Insurance Services Market, 2022



[17] Pensions and Insurance Authority, Insurance Industry 4th Quarter Report – 2022 www.pia.org.zm/?wpdmpro=insurance-industry-4th-quarter-report-2022 accessed 13 March 2024

Figure 2: Market Shares of Players in the General Insurance Services Market, 2022



47. The parties submitted the following market share information on life insurance business in Kenya based on gross premium income for the year 2022 per Table 4 below.

Table 4: Market Shares of the Indirect Target (through APA Life Assurance Limited) and its competitors for life insurance business in Kenya based on gross premium income for the year 2022[18]

Provider	Market Shares (%)
Britam Life Assurance	20.15
Icea Lion Life Assurance	14.7
Jubilee Insurance Company	12.67
Kenindia Assurance Company	6.3
CIC Life Assurance Company	6.25
Sanlam Life Assurance	5.54
GA Life Assurance Company	5.31
Absa Life Insurance	4.05
Liberty Life Assurance Company	3.52
APA Life Assurance Limited	***3.43***
Equity Life Assurance	2.97
Pioneer Assurance Company	2.64
Old Mutual Life Assurance	2.46
Madison Insurance Company	2.44
Prudential Life Assurance	1.42
Old Mutual Assurance	1.24
Kuscco Mutual Assurance Limited	1.20
The Kenyan Alliance Insurance	0.90
Kenya Orient Life Assurance	0.88
Capex Life Insurance Company	0.73

[18] Insurance Regulatory Authority of Kenya, 2022 4th Quarter Insurance Industry Report

Geminia Life Insurance Company	0.80
Metropolitan Cannon Insurance	0.31
The Monarch Insurance	0.08
Total	**100**

48. The parties submitted the following market share information on non-life insurance business in Kenya based on gross premium income for the year 2022 per Table 16 below.

Table 5: Market Shares of the Indirect Target (through APA Insurance Limited) and its competitors for non-life insurance business in Kenya based on gross premium income for the year 2022[19]

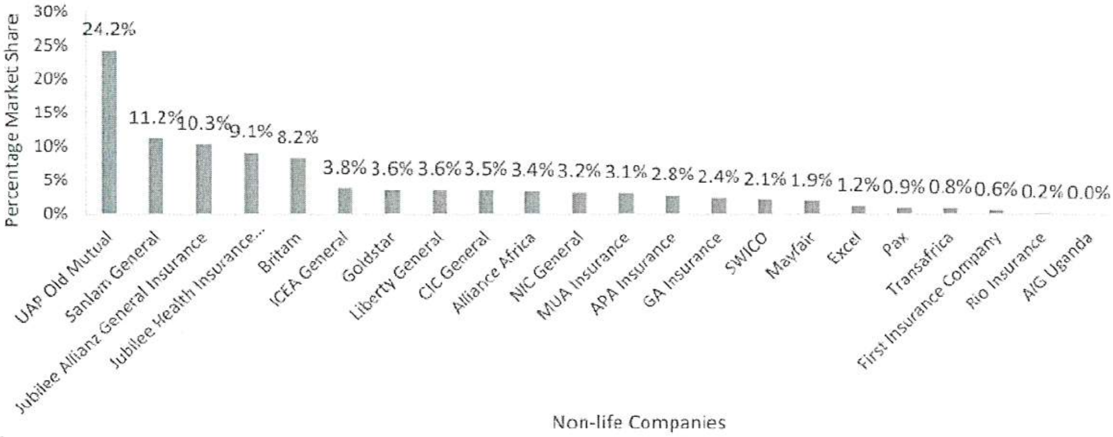
Provider	**Approximately Market Shares (%)**
Old Mutual General Insurance	8.80
APA Insurance Limited	***8.68***
GA Insurance Company	8.24
CIC General Insurance Company	8.21
Britam General Insurance	6.42
Jubilee Health Insurance	5.33
Madison Insurance Company	4.59
ICEA Lion General Insurance	4.32
AAR Insurance Kenya	4.29
Heritage Insurance Company	4.17
Geminia Insurance Company	3.39
Mayfair Insurance Company	3.27
First Assurance Company	3.26
Jubilee General Insurance	2.37
Directline Assurance Company	2.53
AIG Insurance Company	2.14
MUA Insurance Company	2.13
Sanlam Insurance Company	1.95
Fidelity Shield Insurance	1.83
Occidental Insurance Company	1.67
Kenindia Assurance Company	1.40
Kenya Orient Insurance	1.29
Trident Insurance Company	1.27
Intra-Africa Assurance	1.26
Pacis Insurance Company	1.16
Pioneer Insurance Company	0.97
Tausi Assurance Company	0.97
The Kenyan Alliance Insurance	0.92

[19] *Ibid*

Metropolitan Cannon General	0.79
Invesco Assurance Company	0.73
African Merchant Insurance	0.61
Takaful Insurance of Africa	0.55
Xplico Insurance Company	0.48
Total	**100**

49. The parties submitted that the Indirect Target's market shares in Uganda (through APA Insurance Uganda Limited) for general insurance products is 2.8% for the year 2022 and it competes with 20 other insurance companies to provide such services as illustrated in Figure 3 below[20].

Figure 3: Market Shares of Players in General Insurance Market in Uganda



50. The parties submitted that the market shares of the Acquirer for non-life reinsurance market in Kenya is less than 5%.

51. The CID notes that the acquirer does not operate in the same relevant market as the target in Kenya, Uganda and Zambia for the respective provision of life and non-life insurance services. additionally, the target does not operate in the market for reinsurance. Hence, this transaction will not result in a change in the market structures, by way of market share accretion, in the defined markets to the transaction. It is further observed that, based on information from the respective regulators in Kenya and Uganda, the markets for life and non-life insurance are replete with players with fragmented market shares.

52. Given the absence of overlap in the activities of the parties in the relevant markets, the transaction is not removing any effective competitor from the relevant markets. The state of competition pre- and post-merger is expected to be the same, and therefore it is not likely that the transaction would result in coordinated effects in any of the relevant markets.

[20] Information sourced from Insurance Regulatory Authority of Uganda

53. As noted above, there are vertical links between the acquirer's operations in the upstream markets for reinsurance services on the one hand and the downstream markets for life and non-life insurance. Life and non-life insurance companies use the services of reinsurers to reinsure the risks that they undertake in their course of business.

54. The CID assessed whether post the transaction, the merged entity will have the ability and incentive to restrict the supply of its reinsurance to competitors of the target, in a manner which will significantly lessen competition in the market for the supply of life and non-life insurance (input foreclosure); and/or whether the merged entity will have the ability and incentive to stop purchasing reinsurance from the competitors of the acquirer in a manner which will significantly lessen competition in the market for the supply of reinsurance (customer foreclosure).

55. As noted above, the acquirer has a market share of less than 5% in the market for the reinsurance for non-life insurance in Kenya. It is reasonable to expect that the market shares of the acquirer will be lower in the broader global market for reinsurance, such that the acquirer will not have the ability to engage in input foreclosure, because any attempt to increase prices will result in its customers choosing another re-insurer. The CID notes in the same vein that the target group has insignificant market shares for the supply of life and non-life insurance and this removes its ability to engage in customer foreclosure.

Consideration of Third-Party Views

56. In arriving at its determination, the CID also considered submissions from the National Competition Agencies of DRC, Kenya, Mauritius, Zambia and Zimbabwe which confirmed the absence of competition and public interest concerns.

Determination

57. The CID determined that the merger is not likely to substantially prevent or lessen competition in the Common Market or a substantial part of it, nor will it be contrary to public interest. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.

58. The CID, therefore, approved the transaction.

59. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 04th day of May 2024

Commissioner Dr Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma **Commissioner Islam Tagelsir Ahmed Alhasan**