

Competition Law

ALERT

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A step closer to a harmonised competition law approach in East Africa: Kenyan and EAC competition authorities conclude MoU

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To do this, the MoU aims to mitigate competition infringements that have cross-border effects. This is particularly topical as we have seen increasing global antitrust activity around multinational corporations – often tech firms – being investigated in Europe, the UK, the US, India, South Africa, Turkey and elsewhere. Allegations of antitrust infringements levelled at global corporations often extend beyond one nation's borders, meaning that antitrust authorities increasingly need to collaborate with their foreign counterparts in order to regulate these corporate behemoths. Naturally, before there can be meaningful collaboration between the CAK and the EACCA, the legal framework needs to be in place; and so the two agencies have committed that by the end of 2024 they will have developed and implemented an information sharing framework for cross-border transactions, as well as reviewed and streamlined the merger notification guidelines. The former will be useful in joint investigations,

market inquiries and studies. The work on merger notifications shows their respective commitment to adopting a single notification and harmonised regime that will foster predictability and increase efficiencies to both time and costs for businesses with multijurisdictional merger notifications.

This is the first MoU concluded by the EACCA – currently a seven-member bloc consisting of Burundi, the Democratic Republic of Congo, Kenya, Rwanda, South Sudan, Tanzania and Uganda. While the EACCA is not currently accepting or reviewing merger filings, the MoU may allow the bloc to directly initiate a harmonised system, possibly streamlining multiple merger submissions within the bloc into one filing. The EACCA has indicated that it will use what it learns from this initiative as a basis for future collaborations with national agencies – signalling an intention to widen the East African Community's (EAC) network of collaboration.

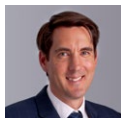
In the EAC's Vision 2050 statement published in 2016, the bloc highlighted the lack of competitiveness within the EAC as one of the vital development concerns facing the region. Vision 2050 indicates that for economic, political, social and cultural integration to improve quality of life of the people of East Africa, it must be achieved through increased competitiveness, value-added production, enhanced trade and investment. Further, in terms of the infrastructure development pillar of Vision 2050, the EAC is driving to facilitate cost reductions and increase the competitiveness of the region in attracting investments and doing business.

By harmonising the approach to competition law, the EAC's vision is one step closer to being realised and the MoU is a laudable step to realising both the EAC and Kenya's vision to promote healthy competition.

Njeri Wagacha and Tairgrine Jones

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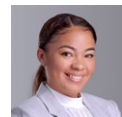
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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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