



Updates on COMESA Competition and Consumer Protection Antitrust Enforcement

This update builds on our earlier analysis of antitrust enforcement by the Common Market for Eastern and Southern Africa (COMESA) Competition Commission (CCC) that has been re-branded to the COMESA Competition and Consumer Commission (CCCC) — which documented the Commission's shift from predominantly merger control review toward active enforcement of behavioral antitrust conduct.

With effect from 5 December 2025, the CCCC Regulations (the 2025 Regulations) came into force, repealing the earlier 2004 legal framework. The new regime codifies and expands behavioural antitrust competences, restructures institutional processes, introduces a formal leniency programme, and integrates consumer protection within the CCCC's core mandate.

Behavioral Enforcement Trends under the Old Regime.

Under the 2004 regulatory framework, the CCCC had already begun to signal its willingness to tackle behavioural antitrust issues, as seen in enforcement actions against CAF and beIN Media for long-term exclusive media agreements, sanctions against Heineken for territorial restrictions and resale price maintenance across multiple member states, and ongoing investigations into Coca-Cola's distribution and pricing practices. (For more information on all of these cases, please see our client brief on [Antitrust Enforcement by the COMESA Competition Commission](#))

These measures, while limited by the procedural and substantive tools then available, reflected an emerging trend toward more active scrutiny of anti-competitive conduct.

The 2025 Regulations build on this foundation, not only reinforcing the CCCC's mandate to address such practices but also providing a more extensive legal and procedural framework to pursue behavioral enforcement with greater clarity, efficiency.

Under the new regime, one of the most significant enhancements is the introduction of express per se prohibitions on vertical restraints, including absolute territorial protection, restrictions on passive sales, and minimum resale price maintenance. These arrangements are now unlawful without inquiry into competitive effects, providing the CCCC with an unequivocal statutory basis to challenge distribution and pricing practices that could fragment the Common Market, a priority already apparent in prior enforcement actions.

Redefinition of Dominance and Economic Dependence: The 2025 Regulations updated the concept of dominance, moving away from strict market share thresholds to a broader assessment of economic strength — the ability of an undertaking to act independently of competitors, customers, and suppliers. They further introduce the notion of economic dependence, capturing situations where one party's bargaining power effectively locks another into a transaction, creating structural imbalances. These definitional changes significantly broaden the scope of conduct that may be considered abusive, particularly in distribution and supply-chain contexts.

Expanded Procedural and Institutional Powers; beyond substantive rules, the 2025 Regulations introduce or enhance several mechanisms central to behavioral enforcement;

Market Inquiries

The CCCC may now initiate market inquiries to investigate conduct or structural issues across sectors. This anticipatory power enables the CCCC to assess competition risks at the market

level, rather than reacting solely to complaints or notifications.

Interim Cease-and-Desist Orders

The CCCC can issue interim orders to restrain potentially harmful conduct while an investigation proceeds, supporting early risk mitigation and limiting continuing harm to competition. So, where the CCCC has reasonable grounds to believe that an undertaking has engaged, or is likely to engage, in a practice likely to contravene these regulations, it may, as a matter of urgency, issue an interim order in writing, directing the undertaking to cease and desist from engaging in such conduct, pending the completion of any investigation or market inquiry.

Search and Seizure (Dawn Raids)

The 2025 Regulations explicitly authorize the CCCC to conduct inspections and investigations into undertakings, including the ability to require entry and inspection of business premises and documents to carry out its duties. In particular, the 2025 Regulations empowers and authorize the CCCC officials to enter premises for the purpose of investigation, examine records, and require production of information relevant to suspected anti-competitive conduct.

In practical terms, this means the CCCC can:

- Enter the business premises of undertakings suspected of anti-competitive conduct, subject to national cooperation;
- Seize or inspect documents (including electronic records) relevant to conduct under investigation; and
- Require individuals to give evidence or produce information.

These powers significantly strengthen the CCCC's ability to gather evidence that would be difficult to obtain through voluntary document requests alone.

Formal Settlement Procedures

The 2025 Regulations provide for a structured settlement process, enabling the CCCC and an investigated party to negotiate a resolution without protracted adjudication. The 2025 Regulations explicitly allow settlement agreements to be concluded either with or without an admission of liability, but must contain certain elements, including:

- An undertaking's acknowledgment of engaging in or participating in the conduct at issue;
- A commitment to cease the conduct or undertake remedial actions; and
- A fine determined by the CCCC as part of the settlement.

Although the 2025 Regulations do not set out every procedural detail, such as specific settlement guidelines, these are expected to provide further clarity on how settlements should be implemented. Nevertheless, the 2025 Regulations formally establish settlements as a recognized alternative to full contested proceedings. This aligns COMESA with international best practices, where negotiated resolutions can streamline case handling, reduce litigation time, and encourage compliance by providing companies with an opportunity to resolve matters efficiently.

In practice, this settlement mechanism allows:

- Early resolution of behavioral conduct matters where the firm accepts the core findings;

- Tailored remedies that address competition risks without full hearings; and
- Reduced uncertainty and cost for parties, while still preserving enforcement integrity.

New Decision-Making Framework

The new Regulations abolish the former Committee Responsible for Initial Determinations (CID) and instead establish a Panel Responsible for Determination as the primary adjudicative body within the Commission for both competition and consumer protection matters. This Panel:

- is composed of three to five Commissioners appointed from the CCCC Board;
- decides on prohibited conduct cases and merger matters; and
- has the authority to impose fines, order remedies, and issue final determinations.

Introduction of a Leniency Program

A further significant enhancement to the CCCC is the introduction of a formal leniency program applicable to cartel conduct.

Under the 2025 Regulations, the CCCC is empowered to grant leniency to undertakings that voluntarily self-report participation in per se prohibited cartel practices and provide meaningful cooperation in the context of the CCCC's investigation. Such cooperation may include the disclosure of evidence, provision of witness testimony, and continued assistance throughout the enforcement process.

Undertakings granted leniency by the CCCC will also benefit from immunity from prosecution under the national laws of COMESA Member States in relation to the same conduct.

This cross-jurisdictional immunity represents a critical incentive for cartel participants operating across multiple Member States and reinforces the supranational character of COMESA competition enforcement.

The Regulations further provide that the CCCC must develop detailed guidelines governing the implementation of the leniency program, including eligibility criteria, the scope of immunity or fine reduction, and procedural requirements. Once adopted, these guidelines are expected to play a central role in shaping cartel enforcement strategy and compliance risk assessments for businesses operating within the COMESA.

These reforms should be viewed as both continuity and transformation. The CCCC's priorities regarding territorial restrictions, pricing restraints, and exclusive arrangements remain consistent with past enforcement, as evidenced by prior cases such as Heineken and Coca-Cola. At the same time, the introduction of per se prohibitions, broader definitions of dominance and economic dependence, enhanced procedural powers, and the leniency program represent a transformation in the CCCC's legal and operational capacity, creating a robust, predictable framework for behavioral antitrust enforcement.

Practical Implications for Businesses

Thus, for businesses in the COMESA, the new regime requires careful review of distribution agreements, pricing clauses, and territorial restrictions in light of per se prohibitions. Companies must consider not only market share but also economic strength and dependence, as leverage over counterparties may trigger dominance or abuse findings. Enhanced investigatory powers, interim measures, and market inquiries underscore the need for strong compliance programs, documentation, and preparedness for inspections.



ASMAA EI DESOKY

Senior Associate

asmaa.eldesoky@bremerlf.com

Asmaa is a Senior Associate of the region law firm BREMER and part of the firms Antitrust & Merger Control team. She advises international corporates and PE firms on merger control, antitrust as well as FDI matters including investment protection and general corporate matters in Egypt, Saudi Arabia, and the larger Middle East. She works in English and Arabic languages.



NICOLAS BREMER

Partner

nicolas.bremer@bremerlf.com

Nicolas is a partner and attorney with the regional law firm BREMER where he heads the firm's Antitrust & Merger team. He oversees the firm's Riyadh and Cairo representations and has extensive experience in advising international and domestic clients on merger control and antitrust matters in Saudi Arabia, Kuwait, Egypt and the wider Near and Middle East. He works in English, Arabic and German.