



# Public Interest Considerations in COMESA Merger Control

On 13 January 2026, the COMESA Competition and Consumer Commission (CCCC) issued Practice Note Number 1 of 2026 (Practice Note), providing guidance on the operation of the new regime. The new regime introduces several material changes to the COMESA merger control regime. These include the shift from a voluntary, non-suspensory regime to a mandatory, suspensory one, revised financial notification thresholds, new rules for digital market transactions, and the formal introduction of public interest considerations into the substantive merger assessment. This brief focuses on public interest considerations.

#### *Public interest considerations under the old regime*

Under the prior regime the CCCC—then CCC—did have the authority to consider transactions from both competition and public interest perspective. However, public interest considerations available were closely tied to competition concerns. In practice, they were limited to matters such as price, quality, and variety of goods and services available in the market, and barriers to market entry for actual or potential competitors. These were, in substance, competition issue framed in public interest terms.

#### *Public interest considerations under the new regime*

Under the new regime public interest considerations include factors that are clearly distinct from a competition matters. They include the effect of the transaction on employment across the COMESA Member States, the ability of small and medium-sized enterprises to compete effectively in the Common Market, and the ability of COMESA-based industries to compete in international markets. The CCCC

may also consider the impact of the transaction on environmental protection, sustainability, and innovation.

The new regime further expanded the scope of public interest considerations the CCCC may consider. Still, competition concerns remain the primary focus of the regime. The primary test under the new regime remains whether a merger is likely to substantially lessen or prevent competition in the Common Market or a substantial part of it. Public interest considerations secondary. According to the Practice Note, on balance the CCCC is more likely than not to reject an anti-competitive merger even where the transaction advances public interest objectives. Furthermore, the standard for establishing beneficial impact on public interest matters is high, and the burden of prove lies with the notifying parties.

In the opposite case the CCCC has authority to reject a merger that is likely to have significant negative effects on public interest, even where the transaction does not raise competition concerns. However, as before the public interest considerations will typically not be the decisive factor. According to the Practice Note the CCCC is unlikely to reject a merger that poses no competition concerns, solely based on negative public interest outcomes. Where the CCCC seeks to reject a merger on public interest grounds, the burden of prove for the negative public interest effect lies with the CCCC.

The Practice Note further clarifies that the words 'likely' and 'unlikely', as used in the context of the public interest assessment, indicate probability rather than certainty. The outcome in each scenario remains possible but rare.

Where the CCCC identifies concerns relating to both competition and public interest, it may issue a Statement of Concern. The notifying parties will be given the opportunity to respond to that Statement before the CCCC reaches a final determination. Parties may also propose remedies or commitments to address the

concerns identified. The CCCC will assess whether the proposed remedies are sufficient, appropriate, proportionate, and enforceable. Where they are not, the public interest concerns will be treated as unresolved.

A constellation so far not contemplated in the Practice Note is the scenario where a transaction has positive public interest impact in one and negative public interest impact in another COMESA Member State. It appears unlikely that the CCCC would oppose such a merger, simply because there may be negative effects on non-competition matters in one COMESA Member State. Such negative effects could arguably be better addressed with remedies.

#### *Procedural considerations*

The statutory review period is 120 calendar days from receipt of a complete filing. Whether the filing is complete will be determined by the CCCC. Where a transaction raises competition concerns that require further examination, the CCCC may seek an extension of that period from the Panel Responsible for Determinations (Panel). Extensions are granted on a case-by-case basis and may not cumulatively exceed 120 days.

The Practice Note does not expressly address whether the identification of public interest concerns can justify an extension of the review period. However, given the CCCC's confirmation that extensions are only sought where competition concerns require further examination, it stands to reason that public interest concerns alone would not trigger an extension. Parties should nonetheless account for the possibility that a transaction raising material public interest issues could require more substantive engagement with the CCCC during the review period. This may have practical implications for transaction timelines.



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