



CEMAC

On 16 March 2022, CEMAC published Regulation No. 00087 to supplement and amend Articles 1 and 6 of Regulation No. 00035 of September 2020. The new Regulation contains provisions relating to, *inter alia*, the capping of merger notification fees at CFA1-billion; and providing clarifications relating to market characterisation, the method of calculating filing fees, the conduct merger investigations, and merger clearance procedures.

Malawi

On 5 May 2022, the Competition and Fair Trading Commission published six sets of new guidelines relating to the following topics: public interest considerations, predatory discriminatory and tying conduct, market definition, exclusive dealing arrangements, collusive conduct, and abuse of dominance.

Morocco

Earlier this year, the Minister of Trade and Industry announced the drafting of a new law aimed at protecting small traders against unfair competition by larger competitors in the food retail market.

On 4 May 2022, the Competition Council imposed its first fine for pre-implementation of a merger without approval. This was set at MAD 11 million (approx. USD1.1-million).

Seychelles

In recent months, Seychelles has undergone significant legal reform, with further key reforms on the way. The Fair Trading Bill No. 4 of 2022 was published on 31 March and approved by parliament on 26 May. It will become effective once it is signed by the president and published in the *Government Gazette*.

The Bill seeks to repeal the existing legislation and revise and consolidate the laws relating to fair trading, competition and consumer protection to achieve alignment with international best practice. The Bill will establish the Fair Trading Commission (to administer the Bill) and the Fair Trading Tribunal (to adjudicate matters relating to the Bill).

The Bill contains provisions on abuse of dominance, restrictive horizontal and vertical practices, mergers, market inquiries, offences and penalties. In relation to merger control, provisions relating to scope of jurisdiction and the definition of mergers remain largely unchanged, save for the inclusion of instances of “control” over an enterprise.

Notably, revised provisions relating to thresholds and categories of mergers appear to be based on turnover/assets, as opposed to the previous position, which was based on market share alone.

South Africa

There have been a number of significant developments in the South African competition law space since the beginning of the year. In March, the Competition Commission published guidelines aimed at the promotion of effective competition in public procurement and advancing the development of small and medium enterprises. The guidelines highlight some of the common concerns arising from anti-competitive public procurement and provide stakeholders with a range of pro-competitive options that can be adopted as best practice.

Another noteworthy development relates to the conclusion of a memorandum of understanding between the Competition Commission and the Federal Competition and Consumer Protection Commission of Nigeria, targeting cross-border anti-competitive conduct (such as export cartels). The MoU provides for one authority to request the other to initiate enforcement activities in instances where anti-competitive conduct in the second jurisdiction has anti-competitive effects in the first.

Zimbabwe

On 25 March 2022, the revised thresholds for notification of a merger were issued. In terms of the Competition (Notification of Mergers) (Amendment) Regulations, 2022, merger notification is mandatory if, in the immediate previous financial year, the merging parties’ combined annual turnover in or from Zimbabwe or combined total asset value in Zimbabwe (whichever is higher) is valued at or exceeds USD1.2-million. This is significantly higher than the prior threshold of ZWD10-million (around USD28 000).

The Amendment Regulations also adjusted the minimum and maximum fee cap levels relevant to calculating merger filing fees. The basis for calculation remains at 0.5% of the combined annual turnover or the combined value of assets (whichever is higher) of the merging parties in Zimbabwe, but the minimum fee level has been adjusted to USD10 000 (previously ZWD100 000/USD276), and the maximum fee level is now USD40 000 (previously ZWD800 000/USD2 210).

FAST FACTS

EAC/DRC

Having acceded to the EAC Treaty on 8 April 2022, the Democratic Republic of the Congo has formally been admitted as the 7th partner state of the regional organisation of the East African Community.

KENYA

The Competition Authority of Kenya recently approved a merger subject to the condition that there will be no cross-directorship between the participating firms.

ANGOLA

The Competition Regulatory Authority of Angola was minded to impose a range of conditions in a recent energy merger, including a divestiture order. This is the second ever conditional approval issued in Angola.

NIGERIA

In January 2022, for the first time since becoming operational, the Federal Competition and Consumer Protection Commission in Nigeria invited the public to participate in a merger proceeding by submitting comments relating to competition or other relevant/ancillary matters.

MAURITANIA

On 22 February 2022, as part of Mauritania’s reform series, Mauritania’s first Competition Act was approved by parliament.