AFRICA COMPETITION LAW
QUARTERLY ROUND-UP

(ISSUE NO.3 OF 2026 | JULY – SEPTEMBER 2026)

YOUR GO-TO SOURCE FOR THE LATEST COMPETITION LAW DEVELOPMENTS ACROSS AFRICA.

Botswana

Merger Filing Fees Jump Tenfold

On 18 September 2026, the Botswana Competition (Amendment) Regulations, 2026 were gazetted. The amendments increase the merger notification fee from 0.01% to 0.1% of the merging enterprises' combined turnover or assets in Botswana, whichever is higher (but capped at BWP 4 million). The amendments also introduce a merger advisory opinion process under which an applicant may request for the Botswana Competition and Consumer Authority ("**CCA**") to determine whether a proposed transaction constitutes a notifiable merger. The application must be accompanied by an additional (non-refundable) fee of BWP 5,000. The advisory opinion is, however, non-binding and can be revised by the CCA where the information provided was inaccurate or incomplete, or where there has been a material change in the underlying facts or circumstances.
Read more → Botswana Competition (Amendment) Regulations 2026

Democratic Republic of the Congo

DRC Merger Control Ready for Launch

The DRC Competition Commission (COMCO) has published a practical guide to simplified merger-notification procedures and a comprehensive competition law compliance guide. The simplified merger notification procedures apply to transactions that pose no manifest competition risk, including horizontal mergers with a combined market share below 20% and vertical transactions below 30%. Eligible filings are assessed within 15 working days, with Ministerial approval following within a further 20 working days. With COMCO's website also enabling electronic submissions of merger notifications and complaints, the active implementation of the DRC's merger-control regime appears imminent.
Read more→ DRC COMCO Competition Law Compliance Programme | DRC COMCO Practical Guide to the Simplified Procedure for Merger Notification

Kenya

Kenya International Freight and Warehousing Association ("KIFWA") Seeks Green Light for Exemption from Industry-Wide Pricing Standards

KIFWA has applied for a 5-year exemption from the Kenya Competition Act, 2018, to enable it to formulate and implement Standard Price Guidelines establishing minimum pricing thresholds for clearing and forwarding services across sea freight, airfreight, and land/border operations. The Guidelines would apply to all licensed clearing and forwarding agents in Kenya regardless of KIFWA membership. Without the exemption, the conduct would constitute price-fixing in contravention of the Act.
Read more → Kenya Exemption Application GN 11676 of 2026

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New Leadership for Kenya's Competition Tribunal

The Judicial Service Commission has appointed Valentine Mwende Mulwa as Chairperson of the Competition Tribunal for a five-year term effective 2 September 2026, with Dorine Kalii David appointed as Member for a five-year term from 4 September 2026. Hillary Marrirmoi and Raymond Nyamweya have been reappointed as Members for three years from 5 June 2026. The Tribunal, established under section 71 of the Competition Act, hears appeals against decisions of the Competition Authority of Kenya, making these appointments relevant for parties considering challenges to merger determinations, exemption decisions or enforcement outcomes.

Read more → Kenya Gazette Vol CXXVIII - No. 171

Mozambique

New Consumer Protection Framework for Mozambique

Mozambique's government is set to approve Law No. 18/2026, a comprehensive legal framework for commercial activity and consumer protection. Key features include a regime for post-scale warranties, defined rights and duties between consumers and retailers (covering technical assistance, repairs and product replacement), and the incorporation of principles spanning legality, free economic initiative, fair competition and consumer protection. A dedicated sanctions regime will empower authorities to levy fines and penalties against non-compliant commercial operators. No further consultations have been publicly announced to date.

Read more → Club of Mozambique: Govt to approve new Legal Framework for Commercial Activity and Mercantile Services

ARC Publishes Guide to Best Practices for Combating Cartels

The guide addresses seven cartel types: price fixing, market allocation, output restrictions, bid rigging, no-poach agreements, boycotts and hub-and-spoke arrangements. Under Law No. 10/2013, cartels attract fines of up to 5% of the last financial year's turnover of each participating company, with ancillary sanctions including publication of the penalty in the Boletim da República and exclusion from public tenders for up to five years. The guide also details the ARC's leniency regime, introduced by Resolution No. 1/2025, under which the first company to cooperate may receive a fine reduction of 50–70%, the second 30–50%, and the third 10–30%.

Read more → Guide_to_Best_Practices_Combating_Cartels.docx (Portuguese version: Guia - Combate ao cartel)

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Namibia

Namibia Competition Commission ("NaCC") Eyes Higher Merger Thresholds and a Simpler Fee Framework

On 13 August 2026, the NaCC hosted a stakeholder engagement on "Merger Notification Thresholds & Filing Fees", noting that the thresholds were last amended in 2015 and the filing fees last revised in 2017. The NaCC proposes to double both the combined and target thresholds, and to replace the existing seven-tier fee structure with a simplified three-tier structure. It has also proposed a supplementary test or discretionary review, operating alongside the revised thresholds, to capture transactions falling below the thresholds but which may impact competition or raise public-interest concerns. At this stage these proposals are recommendations only and not yet in force, remaining subject to further stakeholder engagement, board consideration and Ministerial approval before they can be gazetted. These proposals promise fewer filings and lower compliance costs for routine deals, but the proposed discretionary review power makes clear that the NaCC intends to retain meaningful oversight of transactions they deem may affect competition.

Read ENS' key takeaways here → ENS - News - Proposed increase to Namibian merger notification thresholds, merger filing fees and administrative fees

South Africa

Constitutional Court Closes the Book on the Forex Cartel Saga

The South African Constitutional Court delivered a unanimous judgement resolving three interlinked applications for leave to appeal arising from the Competition Commission's prosecution of an alleged single overarching conspiracy among 28 local and foreign banks to manipulate the USD/ZAR exchange rate between 2007 and at least September 2013. The Court endorsed a three-part test: (i) there must be a common anti-competitive goal, (ii) each firm must have intentionally contributed to it, and (iii) each must have known (or should have known) about the wider scheme. A higher bar for proving a cartel conspiracy has been set. The case now returns to the Competition Tribunal for a full hearing on the merits, the first in a decade-long saga.

Read more → Judgment of the Constitutional Court

Franchise Sector Faces Full-Scale Market Inquiry

The Competition Commission has released draft terms of reference for a new Franchise Market Inquiry. The franchise sector is a significant contributor to the South African economy, comprising over 800 franchisor brands, more than 3,500 franchises and approximately 30,000 outlets generating an estimated R999 billion in turnover and over 500,000 jobs. The market inquiry will examine whether features in the franchise sector impede, distort, or restrict competition focusing on three broad themes: franchise agreements and contractual practices, information asymmetries between franchisors and franchisees, and finance and funding conditions affecting entry and expansion by SME and HDPs.

Read ENS' analysis on the implications of the market inquiry here → ENS: South Africa's franchise sector under the spotlight: Competition Commission launches Market Inquiry

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Small Merger Guideline Catches Up with New Thresholds

The Competition Commission has amended its Guideline on Small Merger Notification under Government Notice No. 7828 of 2026, with the amendments principally updating the monetary thresholds in the Guidelines to align with the revised merger thresholds that took effect on 1 May 2026.
Read more → SA Gov Notice 7828 of 2026 - Amendment Small Merger Guideline

Draft Guidelines Take Aim at Aftermarkets Repair

The Competition Commission has published draft Guidelines on Repair, Service and Maintenance in Aftermarkets for public comment. The guidelines extend the approach taken in the Commission's 2021 automotive aftermarkets guidelines to electronics, appliances, medical devices and other durable goods. They target OEM practices that may foreclose independent service providers, including restrictions on access to spare parts, diagnostic tools, software locks, proprietary activation systems, restrictive accreditation requirements and discriminatory supply terms. The guidelines also flag conduct that penalises consumers for using independent repairers, such as conditional discounts, excessive switching costs and warranty terms that go beyond what is needed to administer the warranty.
Read more → SA Draft Guideline on Repair Aftermarkets

Cost of Living Report Flags Gap Between Falling Input Costs and Consumer Prices

The Competition Commission released its third Cost of Living Report on 6 September 2026, highlighting sustained pressure on household budgets as electricity, water, petrol, transport, healthcare and communication costs continue to rise faster than overall inflation. The report also flags that consumers are not benefiting from lower input costs in several food markets. In brown bread, maize meal and sunflower oil, producer prices remain elevated despite significant decreases in the price of grains and oilseeds. In other markets, including IQF chicken and canned pilchards, retail prices have held firm despite stable or declining producer prices. The Commission has signalled that the gap between falling input costs and persistent consumer prices is a priority area of focus.
Read more → Cost of Living Report 2026

South Sudan

South Sudan Launches its Competition Authority

South Sudan's Ministry of Trade and Industry has unveiled the Competition and Consumer Protection Authority in Juba. The independent body is mandated to prevent monopolistic practices, enforce pricing standards, monitor product safety, establish market standards, eliminate unfair trade practices and investigate consumer rights violations. For a country with no prior competition enforcement framework, this is a significant development.
Read more → Eye Radio: Trade Ministry unveils Competition, Consumer Protection Authority to tackle monopolies

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Tanzania

Tanzania Gazettes Detailed Abuse of Dominance Regulations

The Tanzania Fair Competition Commission has published the Fair Competition (Abuse of Dominant Position) Regulations, 2026 (Government Notice No. 244 of 14 August 2026). The regulations define dominance by reference to factors including a market share exceeding 40% held for a significant period, control over essential inputs, and barriers to entry such as economies of scale or prohibitive transport costs. They catalogue specific forms of abuse including predatory pricing, margin squeeze, cross-subsidisation, refusal to deal, denial of access to essential facilities, tying and bundling, price discrimination, loyalty rebates, abuse of intellectual property rights and the imposition of unrelated supplementary conditions. Notably, the IP abuse provisions capture strategic patent thickets and sham litigation aimed at blocking competitors.

Read here → Tanzania Fair Competition (Abuse of Dominance) Regulations

Togo

Competition Framework Overhaul Moves Forward

Following the Council of Ministers' 1 April 2026 adoption of the draft law, as reported in our last issue, the National Assembly unanimously adopted the bill at first reading on 26 June 2026. The bill replaces Togo's 1999 competition and consumer protection framework. It tightens the rules on anti-competitive practices, abuse of dominance and unfair commercial practices and establishes a National Commission for Competition and Consumer Protection.

Read here → L'Assemblée nationale adopte deux projets de loi en faveur de la gouvernance maritime et de la protection des consommateur

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ENS in action

60+ Merger Approvals secured between January and September 2026

15+ Jurisdictions including Angola, Botswana, Egypt, Eswatini, Kenya, Mozambique, Namibia, Nigeria, South Africa, Tanzania, Zambia and Zimbabwe, as well as the CEMAC, COMESA and ECOWAS regional competition authorities.

25+ sectors, from automotive, aviation, beverages, cement and energy to pharmaceuticals, financial services, ICT, rail, retail, education and telecommunications

On 1 September 2026, ENS led the competition and antitrust risk management panel at **The Legal 500's Kenya GC Summit in Nairobi, Kenya**, bringing together senior in-house counsel and practitioners for a wide-ranging discussion on the CAK's enforcement priorities and the realities of running multi-jurisdictional filings across East Africa, the regulation of buyer power, and the practical experience of implementing merger conditions. ENS also published a companion piece, **Kenya: Competition law in motion,** and what businesses need to know, setting out the enforcement landscape across Kenya and the wider East African region.

ENS was invited to present and moderate at the **inaugural Annual Conference of the ECOWAS Regional Competition Authority (ERCA)** from 15-17 September 2026 **in The Gambia**. ENS presented its paper, One Market, Many Watchdogs: Reconciling Regional Primacy and National Autonomy in African Competition Enforcement, examining what it would take to make ERCA's one-stop shop for cross-border merger control work in practice alongside national enforcement powers. ENS also moderated a multi-stakeholder dialogue on how competition law is experienced in practice by businesses, SME traders and policy experts, across West Africa. Among the key outcomes of the conference, ERCA announced the launch of a market inquiry into the cocoa value chain, of particular significance to Côte d'Ivoire and Ghana, two of the world's leading cocoa producers.

ENS will host a breakfast panel discussion with the **South African Chamber of Commerce in Mauritius on 29 October 2026**, titled "From Regulatory Hurdle to Deal Driver: Merger Control Strategy for Cross-Border M&A and Financing". The panel will explore how early competition risk assessment, coordinated multi-jurisdictional filings and constructive engagement with competition authorities can reduce execution risk and preserve deal value for cross-border transactions originating from or passing through Mauritius.

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Discover more about **ENS Competition practice.**