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GOVERNMENT NOTICE NO. 27

COMPETITION AND FAIR TRADING ACT, 2024
(NO. 20 OF 2024)

COMPETITION AND FAIR TRADING REGULATIONS, 2026

ARRANGEMENT OF REGULATIONS

REGULATION

REGULATION

IN EXERCISE of the powers conferred by section 73 of the Competition and Fair Trading Act, 2024, I, SIMON ITAYE, Minister of Industrialization, Business, Trade and Tourism, on recommendation from the Commission, make the following Regulations—

PART I—PRELIMINARY

1. These Regulations may be cited as the Competition and Fair Trading Regulations, 2026. Citation

2. In these Regulations, unless the context otherwise requires— Interpretation

"investigation report" means a report prepared by the Secretariat at the conclusion of an investigation under the Act; and

"Technical Committee" means the Technical Committee of the Commission established pursuant to section 11 (2) of the Act.

3.— These Regulations shall apply to— Application

(*a*) individuals and enterprises who supply or purchase goods, digital products or services, including intermediation services in Malawi;

(*b*) consumers of goods, digital products or services in Malawi; and

(*c*) business enterprises that intend to merge their businesses in Malawi or whose merger will have an effect within Malawi.

PART II—PROCEDURES FOR DELIVERY OF DOCUMENTS

4.—(1) A person who intends to deliver any communication or documents to the Commission, shall deliver such communication through the following means— Delivery of documents to the Commission

(*a*) delivering by hand to the Commission's offices;

(*b*) delivering by post;

(*c*) communicating by phone;

(*d*) transmitting through electronic mail; or

(*e*) delivering the communication to the Commission, through any other means determined by the Commission.

(2) The Commission may effect transmission or delivery of communication or documents to its addressees in any of the following means—

(*a*) delivery by hand against receipt;

(*b*) registered letter with acknowledgement of receipt; and (*c*) electronic mail.

(3) Where a person delivers or transmits to the Commission a document outside the office hours of the Commission, the document shall be deemed to have been delivered on the next working day.

PART III—PROCEDURES RELATED TO AUTHORIZATIONS

Authorization procedures

5.—(1) An application for authorization pursuant to section 30 of the Act, shall be in the form set out in Form I of the *Schedule* and shall be accompanied by a prescribed fee.

(2) For the avoidance of doubt, an authorization shall not be granted for the categories of agreements which relate to prohibited activities under section 26 of the Act.

(3) Upon receiving an application referred to under subregulation (1), the Chief Executive Officer shall, where—

(*a*) the application is materially incomplete, advise the applicant of any further information that will be required before the application is considered; or

(*b*) the application does not specify a specific agreement or class of agreements, require the applicant to state more specifically the authorization sought, before the application is considered.

(4) Where the applicant—

(*a*) responds, but does not, to the satisfaction of the Chief Executive Officer, meet the requirements set out in Form II, the Chief Executive Officer may stipulate any further information, or clarification required before the application is considered; and

(*b*) does not respond within thirty days, the application shall be deemed to have been abandoned by the applicant, and the filing fees paid by the applicant shall be forfeited to the Commission.

(5) Where an application is deemed to have been abandoned in accordance with subregulation (3)(b), the Chief Executive Officer may close its file on that application without making a decision contemplated in section 30 of the Act.

(6) A person who furnishes information, makes submissions, comments or subsequently submits further information to the Commission, in the course of the same proceedings, shall be required to clearly identify any material which he or she considers to be confidential on the relevant Form.

(7) An application for an authorization shall be deemed complete once all the prescribed information is provided and the fees have been paid in full.

(8) Unless the Commission and the applicant agree otherwise, in writing, the Commission shall grant or refuse to grant a request for authorization within six months of receipt of the application for authorization.

(9) Where the Commission grants an authorization to an applicant, it shall issue an authorization letter to the applicant.

(10) The provisions on investigation under Part V shall apply, with necessary modifications, to applications for authorization under this Part.

Revocation of an authorization

6.—(1) Where the Commission contemplates revoking an authorization granted under section 30 of the Act, it shall, in writing, notify the person concerned of its intention to do so.

(2) The notice referred to under subregulation (1) shall—

(*a*) request the person concerned or interested parties to make representations to the Commission, on why the authorization should not be revoked; and

(*b*) state that the representations should be submitted to the Commission, within fourteen days from the date of issue of the notice.

(3) The Commission may, at any time, request further information from—

(*a*) the person concerned; or

(*b*) any person who submitted a representation,

in response to the notice of a proposed revocation.

(4) After considering any representations made or other information received in relation to the proposed revocation, the Commission shall—

(*a*) either revoke the authorization, by issuing to the person concerned a notice of revocation; or

(*b*) confirm the authorization as previously granted to that applicant, in writing and give the reasons for its decision.

(5) Where the Commission revokes an authorization, it shall issue a notice of revocation to the relevant parties.

Publication of authorizations

7.—(1) The Commission shall publish a notice of an authorization granted, refused or revoked under section 30 of the Act on its website.

(2) The notice published pursuant to subregulation (1), shall include the reasons for the Commission's decision to grant, refuse or revoke an authorization.

PART IV—PROCEDURE FOR APPLYING FOR AN ADVISORY OPINION

Information to be submitted for an advisory opinion

8.—(1) An application for an advisory opinion under section 33 of the Act shall be made to the Commission in the form as prescribed in Form II of the *Schedule* and shall contain the following information—

(*a*) the name of the applicant;

(*b*) the business address of the applicant;

(*c*) a brief narrative of the effect of the business conduct;

(*d*) the signature of any authorized representative of the enterprise;

(*e*) such other particulars as are relevant to the proposed business conduct; and (*f*) any other information that applicant or the Commission may deem necessary.

(2) An application for an advisory opinion shall be deemed complete once all the prescribed information is provided and the fees have been paid in full.

(3) The Commission shall issue advisory opinions within a reasonable period of time, having regard to the level of complexity of the opinion requested and the commercial circumstances or any urgency indicated by a party applying for the advisory opinion, but in any event, within a period not exceeding thirty working days after receipt of a complete application.

PART V—PROCEDURES RELATED TO INVESTIGATIONS ON ANTI-COMPETITIVE CONDUCT AND UNFAIR TRADING PRACTICES

Decision to conduct an investigation

9.—(1) The Commission may set its own priorities for investigating a prohibited anti-competitive business conduct within the meaning of Part V of the Act or unfair trading practice within the meaning of Part VII of the Act, so as to maximize the effective use of its resources.

(2) A person may initiate a complaint about an anti-competitive business conduct or unfair trading practice by submitting—

(*a*) information concerning an alleged prohibited or anti-competitive trade conduct or unfair trading practice to the Commission, in any manner or form; or

(*b*) a complaint against an alleged prohibited or anti-competitive trade conduct or unfair trading practice to the Commission in the form as set out in the Forms III or IV, respectively, of the *Schedule*.

(3) The Chief Executive Officer shall undertake a preliminary decision on the facts available and determine whether or not a complaint should be subjected to a full investigation by the Secretariat.

(4) Pursuant to subregulation (3), the Chief Executive Officer may make such enquiries as may be considered necessary and determine whether there are reasonable grounds to believe that a prohibited practice has occurred or is occurring or about to occur.

(5) An enquiry made by the Chief Executive Officer under this Part may include—

(*a*) a specific request for information or documents from any enterprise or groups of enterprises, as regards any specific matter, case, event or business agreement or transaction;

(*b*) a request to attend an interview;

(*c*) a request for a written explanation or otherwise as required for the purposes of the issue at hand; or

(*d*) an inspection of a locus or site, whether accompanied by any officer authorized by the Commission.

(6) Notwithstanding the provisions of subregulations (1) and (2), a complaint shall not be pursued further, where the complaint—

(*a*) does not fall with the scope envisaged under the Act;

(*b*) has no effect on competition or consumer welfare;

(*c*) in whole or in part, is before, or was previously determined by, a court, tribunal, arbitration, judicial or quasi-judicial body;

(*d*) is frivolous and vexatious;

(*e*) lacks evidence; or

(*f*) arose more than six years before the date of lodging the complaint.

(7) Any person who supplies information, makes submissions, comments or subsequently submits further information to the Commission in the course of the same proceedings may be required to clearly identify any material which he or she considers to be confidential.

Initiation of full investigation

10.—(1) Where the Chief Executive Officer has determined that an alleged anti-competitive business conduct or unfair trading practice is to be the subject of a full investigation, the Chief Executive Officer shall cause to be conducted a full investigation by the Secretariat, which shall investigate with a view to establishing whether there is a case to answer.

(2) The Chief Executive Officer shall cause to be conducted an investigation where—

(*a*) the Secretariat has received a complaint that a prohibited practice may have occurred or may be occurring or about to occur; or

(*b*) the Secretariat has reasonable grounds to believe that a prohibited practice may have occurred, may be occurring or about to occur.

(3) Pursuant to the powers conferred on the Secretariat under section 14(2) of the Act, the Secretariat may make such enquiries or order an enquiry as the Commission considers appropriate, necessary or desirable—

(*a*) to keep under review commercial activities, in order to ascertain practices that may adversely affect the welfare and economic interests of consumers; or

(*b*) as will enable the Commission to determine, on its own initiative or at the request of any person, whether an entity is engaged in conduct subject to prohibition under the Act.

Conduct of full investigation

11.—(1) In the course of conducting a full investigation, the Secretariat may—

(*a*) gather information;

(*b*) examine parties or interview witnesses;

(*c*) verify information;

(*d*) challenge confidentiality claims, where there is a claim that information is protected by legal or professional privilege, (*e*) undertake general research, market, research or sector studies;

(*f*) consider exclusion of information from disclosure;

(*g*) set out a statement of the facts and issues;

(*h*) request and obtain economic data, in writing, from the main parties through a questionnaire or in a form as may be prescribed;

(*i*) request and obtain information or economic data, in writing, from third parties;

(*j*) issue a written public notice to invite input from relevant stakeholders;

(*k*) request, in writing, any information relevant to the subject matter of the case;

(*l*) discuss with the main parties and with third parties their written submissions;

(*m*) make arrangements for the issuance of a case schedule providing for the remaining stages of the case and keep main parties appraised of the investigation process;

(*n*) issue an investigation report to the parties who may respond to the investigation report of the case in writing and in an oral hearing within a period prescribed by the Commission; or

(*o*) submit to the Technical Committee, a report of a statement of the facts and issues in the investigation report.

(2) Without prejudice to the generality of subregulations (1) and (2), the Secretariat may engage in discussions with the main parties and third parties on whether the behaviour that is complained against is harmful to competition and consumer welfare.

(3) In carrying out its functions under subregulation (1), the Secretariat shall collect relevant information concerning—

(*a*) preliminary assessment of the relevant markets;

(*b*) the nature of competition in those markets;

(*c*) the possible role or behaviour of a person who is the subject of the investigation; and

(*d*) preliminary assessment of whether the conduct under investigation imposes competitive constraints on the market or harms consumer welfare.

(4) Pursuant to subregulation (1) (*m*) and (*n*), the Secretariat shall prepare an investigation report which shall set out the—

(*a*) economic and legal arguments; and

(*b*) findings by the Secretariat.

(5) Where it appears that the relevant behaviour does not harm or is not likely to harm competition or consumer welfare, the parties involved shall be informed with reasons that the Commission shall not be taking any further action on the matter.

12.—(1) Where the Commission requests a person to provide information, a document or evidence, the Commission shall, in that request— Request for information

(*a*) state the legal basis and the purpose of the request;

(*b*) specify what information or document the Commission requires;

(*c*) fix the time within which the information or document should be provided; and

(*d*) indicate the penalties provided for under the Act, for not complying with such a request.

(2) In the case of natural person or association having no legal personality, the representatives of that natural person or association shall provide the information requested on behalf of the natural person or the association concerned.

(3) All persons summoned to attend and give evidence or produce documents upon the request of the Commission shall be bound to obey the summons served upon them.

(4) The summons referred to under subregulation (3) shall be in the form as prescribed in Form V of the *Schedule*.

13.—(1) For the purposes of section 21(1) (*b*) of the Act, the Chief Executive Officer shall apply to a competent court for the issuance of a search warrant which shall specifically identify the premises that may be entered and searched. Search warrant

(2) A warrant obtained in accordance with subregulation (1) shall remain valid until the—

(*a*) warrant has been executed;

(*b*) warrant has been cancelled;

(*c*) purpose for issuing the warrant has lapsed; or

(*d*) warrant has expired.

14.—(1) A person who has been authorized by the Commission to enter and search premises under warrant may— Entry into premises

(*a*) enter upon or into the premises;

(*b*) search the premises;

(*c*) search any person on the premises, if the authorized person has reasonable grounds for believing that the person on the premises has in his or her personal possession a document that is relevant to the investigation;

(*d*) enter and search the premises where the Commission has reasonable grounds for believing that documents may be destroyed;

(*e*) examine any document found on the premises that is relevant to the investigation;

(*f*) request information about any document from the owner of, or person in control of the premises or from any person who has control of the product or document, or from any other person who may have the information and record of the information;

(*g*) seize, take extracts from, or make copies of, any book or document that is on, or in, the premises that is relevant to the investigation; or

(*h*) use any electronic system or device on the premises, or require assistance of any person on the premises to use that electronic device, to—

(i) search any data contained in, or available to, that device;

(ii) reproduce any record from that data;

(iii) seize any output from that computer for examination and copying; or

(iv) attach a seal and, if necessary, remove from the premises for examination and safekeeping, anything that is relevant to the investigation.

(2) Notwithstanding subregulation (1), where a party claims information to be legally privileged, or which otherwise appears potentially to be legally privileged in that the purposes of the document is for the giving or receiving of legal advice, the person authorized to enter and search the premises shall ensure that the documents are sealed until such time as the Commission and party reach agreement on the claim of legal privilege by referral for independent review or otherwise.

Conduct of entry and search

15.—(1) A person authorized by the Commission who enters and searches any premises shall observe the right to dignity of the person who is the subject of the search.

(2) During the search, only a female officer or female police officer shall search a female person, and only a male officer or male police officer shall search a male person.

(3) A police officer who is authorized to enter and search the premises or who is assisting an authorized officer of the Commission to enter and search the premises, may overcome any resistance to the entry and search by using such force as is reasonably required, including breaking doors or windows of the premises.

(4) An authorized officer of the Commission shall grant a request of the occupier of the premises entered by the officer to allow a reasonable time for the occupier's legal adviser to arrive at the premises before the investigation continues, if the officer considers it reasonable in the circumstances to do so, and if the officer is satisfied that such conditions as he or she considers appropriate to impose in granting the occupier's request are, or will be, complied with.

(5) The Commission shall not use as evidence any document collected during search which contains legally privileged information.

Submission of a case to the Technical Committee

16.—(1) The Chief Executive Officer shall, at the conclusion of an investigation conducted under the Act, submit an investigation report to the Technical Committee.

(2) The investigation report referred to under subregulation (1) shall contain the findings of the investigation and any proposed remedial action for possible implementation.

(3) Where the Chief Executive Officer is of the opinion that an infringement has been committed or is being committed, and that there is a case to be answered by a respondent, he or she shall send to the respondent, written details of the findings and reasoning, together with a copy of the evidence used to substantiate the findings and require the infringing person to make written representations to the Commission within a specified period, not exceeding fourteen days.

(4) The respondents may apply to the Chief Executive Officer for an extension of the time prescribed under subregulation (3), but such an extension shall not exceed seven days.

(5) The Commission shall not be obliged to take into account any written representations received after the expiry of the time limit prescribed under this regulation.

(6) The respondent may, in their written representation, set out all facts known to them which are relevant to their defence against the findings raised by the Secretariat.

(7) The respondent shall attach any relevant documents as proof of the facts set out in their representations and shall provide a paper original or certified copies of the originals as well as an electronic copy or, where they do not provide an electronic copy, two paper copies of their representations and of the documents attached to it.

(8) The responses and any other representations made by the respondents shall be submitted by the Secretariat to the Technical Committee, for consideration.

Determination of the case by the Commission

17. The Commission shall, when determining a matter presented to it by the Chief Executive Officer under this Part, consider—

(*a*) the investigation report referred to it under regulation 16;

(*b*) the written submissions or representations of the respondents, in defence of the allegations set out against them in the investigation report; and

(*c*) any evidence adduced by parties to the investigation during the course of the investigation.

PART VI—HEARING PROCEDURES

Decision to conduct a hearing

18.—(1) The Technical Committee may conduct a hearing if any person who may be affected by an investigation under the Act has—

(*a*) requested for an oral hearing; and

(*b*) submitted an application for a hearing.

(2) The hearing under subregulation (1) shall be considered as part of the investigation procedure and shall be deemed to have been conducted after the investigation report is issued and responses to the investigation report have been received by the Technical Committee.

(3) Where the Technical Committee receives representation from the Chief Executive Officer, regarding compliance or non-compliance with a directive, or performance or non-performance by an enterprise, the Technical Committee shall, before reviewing the matter with a view to making any decision, conduct a hearing.

(4) A third party who have sufficient interest in a case before the Commission shall, subject to submitting their application in the manner as prescribed in Form VI of the *Schedule*, have a right to be heard on their written submissions, if they so request.

(5) The Technical Committee may, where appropriate, summon any person to present his or her arguments at the oral hearing of the parties where a main party or a third party has so requested in their written submissions.

(6) The Technical Committee may summon any other person to make submissions in writing and to attend the hearing.

(7) Where a person is unable to attend a hearing within a prescribed period proves to the satisfaction of the Technical Committee that his or her inability to do so was due to an illness or any other reasonable cause, the Technical Committee may accept to hear that person on a later date, on such terms and conditions as it may determine.

(8) For the purposes of subregulations (1) and (3), the Technical Committee may provide a forum for presentation of any additional information or analysis with a view to facilitate the process of investigation.

Conduct of hearing

19.—(1) The Technical Committee shall, when conducting hearings under this Part, adopt an inquisitorial procedure, as opposed to an adversarial procedure.

(2) Any person invited to appear before the Technical Committee may appear either in person or by a legal practitioner.

(3) Subject to subregulation (4), an oral hearing by the Technical Committee shall be open to the public.

(4) The Technical Committee may, on its own motion or on application by a party, determine that an oral hearing be conducted in camera.

(5) The Technical Committee may allow the parties, the complainants and other persons summoned or invited to the hearing, to ask questions during the hearing.

(6) The proceedings at the hearing and the statements made by each person heard under subregulation (5) shall be recorded and shall form part of the proceedings.

(7) The recordings of the proceedings shall be kept by the Commission.

(8) Upon request and approval of the Technical Committee, the record of the hearing shall be made available to the persons who attended the hearing, but regard shall be given to the protection of their business secrets and other confidential information.

(9) A summons for the attendance of any person in proceedings under this Act shall be issued in the form as prescribed under Form VII in the *Schedule*.

Record of proceedings and recommendations to the Commission

20.—(1) The Technical Committee shall compile a record of the proceedings which it has heard and submit the record to the Commission through the Chairperson.

(2) The record of proceedings referred to in subregulation (1) shall include—

(*a*) all correspondences regarding the matter;

(*b*) any written orders, directions or decisions made during the course of the proceedings;

(*c*) documentary evidence, transcript, if any, or oral evidence; and

(*d*) any video or recording made by the Technical Committee to determine the matter.

(3) All written or recorded submissions or arguments and the recommendations of the Technical Committee shall be submitted to the Commission, for a determination.

Effects of non-compliance

21. Failure to comply with any requirement under this Part shall not invalidate any proceedings, merely by reason of such failure, unless the Technical Committee determines that upholding the proceedings may result in a breach of natural justice.

PART VII—REMEDIES AND SANCTIONS FOR ANTI-COMPETITIVE BUSINESS CONDUCT AND UNFAIR TRADING PRACTICES

Contents of a decision of the Commission

22. A decision made by the Commission on cases of anti-competitive conduct and unfair trading practice in accordance with these Regulations shall comprise the following—

(*a*) the introductory part;

(*b*) the date and the place of the practices;

(*c*) the issues and facts considered;

(*d*) the legal basis upon which the Commission relies on;

(*e*) the key counter-arguments, and pleadings of the parties;

(*f*) any other circumstances related to the case;

(*g*) the legal arguments and underlying evidence leading the Commission to reach the decision;

(*h*) the findings of the Commission, including sanctions, remedies or any other directive considered necessary; and

(*i*) the date of implementing the order.

Amendment of a decision

23. The Commission, when determining a matter may, within a reasonable time, but before the registration of the order, amend its decision for any of the following purposes—

(*a*) to correct a clerical or typographical error or error of calculation;

(*b*) to rectify an accidental slip or omission; or

(*c*) to clarify an ambiguity.

Implementation of decision

24. The Secretariat shall implement the decision of the Commission and, where necessary, shall take action to secure an application of the decision before the Court.

Withdrawal of a complaint

25.—(1) Where a complainant or applicant intends to withdraw a complaint or an application before the hearing, that complainant or applicant shall file with the Commission a written notice of withdrawal of complaint or application and serve a copy of the notice on the other parties.

(2) Notwithstanding subregulation (1), the Commission may, with or without a hearing, grant or refuse an application to withdraw a complaint or an application on any terms that it considers appropriate and shall provide its reasons for doing so.

Determination of monetary penalty

26.—(1) Where the Commission is determining a monetary penalty in accordance with section 22 of the Act, the Commission shall consider whether there are aggravating factors or mitigating factors relating to the matter.

(2) An aggravating factor under subregulation (1) may include—

(*a*) a party's role as instigator or ringleader;

(*b*) a party's obstruction of the investigation;

(*c*) a party being a repeat offender;

(*d*) a party's role in coercing other parties; or

(*e*) a party's refusal to co-operate with the Commission.

(3) A mitigating factor under subregulation (1) may include—

(*a*) the limited role played by a party in the infringing conduct;

(*b*) a party's conduct being encouraged by a written law;

(*c*) a party's level of co-operation of the infringing enterprise with the Commission prior to, and during, the investigation; and

(*d*) whether the infringing party has agreed to publish a notice of the nature and method of its infringing conduct on its business website or in a newspaper or industry newsletter named by the Commission.

Gross annual turnover

27.—(1) The gross annual turnover referred to in section 22 (2) (*a*) of the Act shall be the total sales of goods or services made by the firm in—

(*a*) the last full business year of its participation in the infringement; or

(*b*) the year reflected in the last audited accounts of the firm.

(2) Where the figures made available by a firm are incomplete or not reliable, the Technical Committee may determine the value of the sales or services of that firm on the basis of the partial figures it has obtained and any other information which it regards as relevant and appropriate.

(3) The value of sales shall be determined before deduction of all taxes, including all taxes directly related to the sales.

Payment of monetary penalty

28. A monetary penalty, imposed by the Commission for a contravention of the Act, shall be paid by the respondent to the Commission and the Commission shall issue duplicate receipts thereof.

PART VIII—PROCEDURES FOR REVIEW AND CONTROL OF MERGERS

Informal pre-merger discussions

29.—(1) Where an enterprise that is a party to a proposed merger is of the view that the merger is likely to give rise to the results as set out under section 35(1) of the Act, the enterprise may, prior to formal notification, engage with the Secretariat.

(2) The Commission shall treat with confidentiality any petition or request for an informal review on a proposed merger that is received prior to the public announcement of a merger.

Application for formal approval of a merger

30.—(1) A party intending to apply to the Commission for formal approval of a merger in accordance with section 43 of the Act shall apply in the form as prescribed in Form VIII in the *Schedule*.

(2) A person applying for a negative clearance from the Commission in accordance with section 50 of the Act, shall make the application in the form as prescribed in Form IX of the *Schedule*.

Merger notification thresholds

31.—(1) When considering an application for a merger notification, the Chief Executive Officer shall request the merging parties to submit their audited financial records to determine whether the records meet the prescribed merger notification thresholds.

(2) In the event that one or both of the merging parties have no audited financial records, the Chief Executive Officer shall use the unaudited financial records of the party or parties for this purpose.

(3) After consideration of the financial records obtained from the parties, the Chief Executive Officer shall advise the parties on whether their proposed merger meets the merger notification thresholds or not.

Merger filling fee

32.—(1) A party filing an application for formal approval of a merger, shall pay a merger filing fee calculated on the combined annual turnover derived from, or assets domiciled in, Malawi either in general, or in relation to specific industries.

(2) The party filing an application for a merger or negative clearance shall pay the fees referred to under this regulation on, or before, the date of filing of the application.

(3) An application for formal approval of a merger shall be deemed complete when the notification form has been completed by the Commission and the prescribed fees have been paid in full.

Initiation of a merger investigation

33. The Chief Executive Officer may assess or initiate a merger investigation where he or she—

(*a*) receives an application for formal approval of a merger pursuant to section 43 of the Act;

(*b*) receives a notification of an unauthorized merger; or

(*c*) has reason to believe a merger is being or has already been implemented by parties.

Conduct of a merger investigation

34.—(1) In conducting a merger investigation initiated under regulation 35, the Chief Executive Officer may—

(*a*) test the parties' assertions on the likely effects of the proposed merger in the relevant markets;

(*b*) request information from merging parties or third parties;

(*c*) communicate with the merging parties on the case schedule;

(*d*) draw up a clearance decision where no competition concerns arise;

(*e*) provide preliminary concerns on the proposed merger to enable the merging parties to offer counter-arguments or remedies;

(*f*) undertake information gathering and site visits, as well as further analyses and consideration of merger efficiencies;

(*g*) draft a merger preliminary report which shall be shared with the merging enterprises;

(*h*) receive written submissions from the merging enterprises in response to the merger report;

(*i*) consider and agree on any remedy proposals to address identified harm to competition; and

(*j*) decide on confidentiality requests for any information to be disclosed.

(2) At the conclusion of the investigation, the Chief Executive Officer shall prepare a final merger report, which shall set out—

(*a*) the economic and legal arguments;

(*b*) the findings of the merger investigation, and

(*c*) the proposed remedial action that may be implemented to counter the envisaged competition concerns, if any.

(3) The final merger report shall be submitted to the Technical Committee in line with the procedures set out under regulation 16.

(4) The Technical Committee shall produce a report to be submitted to the Commission as set out in regulation 17.

Notification and investigation of mergers implemented without authorization

35.—(1) Where a person has information that a merger within the meaning of section 36 (1) of the Act is being implemented without the approval of the Commission, the person may notify the Commission by submitting any information concerning the merger being implemented.

(2) The Chief Executive Officer may, on his or her own initiative or upon receipt of a notification referred to under subregulation (1), make such enquiries as it considers necessary to satisfy itself that there are reasonable grounds to believe that an unauthorized merger has been or is being implemented.

(3) An enquiry made in accordance with subregulation (2) may include—

(*a*) a specific request for information from any enterprise or groups of enterprises;

(*b*) an invitation to any person provide information on any specific matter, case, event or business agreement or transaction;

(*c*) an invitation to any person to attend an interview;

(*d*) a request to any person for a written explanation or otherwise as required for the purposes of the issue at hand; or

(*e*) an inspection of a *locus* or site, whether accompanied by the authorized officers or not.

Determination of an administrative order

36. In determining an administrative order to be imposed where a merger has been implemented without obtaining a formal approval from the Commission, the Commission may have regard to whether—

(*a*) the infringement has resulted in anti-competitive effects on any part or substantial part of Malawi;

(*b*) the enterprises involved were in significant financial distress at the time of the implementation of the merger;

(*c*) the enterprises involved have brought the infringement to the attention of the Commission in a timely manner; and

(*d*) any other mitigating or aggravating factors.

PART IX—PROCEDURES FOR CONDUCTING MARKET STUDIES AND MARKET INQUIRIES

Initiation of studies and inquires

37.—(1) The Secretariat shall keep a record of all proposals for new market studies and market inquiries conducted under section 34 of the Act.

(2) A market study or a market inquiry may relate to—

(*a*) the policies, procedures and programmes of regulatory bodies, so as to assess their effects on competition; or

(*b*) conducts and practices that may adversely affect consumer welfare in particular sectors.

(3) A market study or a market inquiry under this Part may be—

(*a*) initiated by the Commission;

(*b*) ordered by the Minister; or

(*c*) requested by a regulatory body.

(4) A proposal to conduct a market study or a market inquiry may originate from a complaint sent to the Commission.

(5) Before conducting a market study or a market inquiry, the Secretariat shall prepare a brief assessment of all issues and proposals, including—

(*a*) the potential benefits of the study or inquiry;

(*b*) the possible cost of the study or inquiry; and

(*c*) the possible duration of the study or inquiry.

(6) At the conclusion of a market study or a market inquiry, the Secretariat may make recommendations.

(7) The Chief Executive Officer shall, decide on what market study or market inquiry should be undertaken by the Commission, by considering—

(*a*) any expectations of the study or inquiry, likely to be proposed by the Minister or a regulatory body;

(*b*) the existing workload of the Commission;

(*c*) the current resource position; or

(*d*) any other factor as the Chief Executive Officer may deem relevant.

(8) After the market study or market inquiry has been authorized by the Chief Executive Officer, he or she shall appoint a team of investigators to conduct a market study or inquiry and shall draw up detailed terms of reference for the team.

(9) The Commission may, where appropriate, engage experts from outside the Commission to conduct a market study or a market inquiry.

Documentary evidence

38.—(1) Where a market study or a market inquiry shall require the compiling of documentary evidence, the Commission shall send a request to the relevant parties, in writing, to provide the documents.

(2) The request referred to in subregulation (1) shall stipulate the time period within which such evidence should be provided.

Collection of data and views

39.—(1) The Commission shall, before the commencement of a market study or a market inquiry, publish a notice, on its website—

(*a*) announcing the commencement of the study or inquiry;

(*b*) setting out the terms of reference for the study or inquiry; and

(*c*) inviting members of the public to provide written representations to the study or inquiry.

(2) Before publishing the notice referred to in subregulation (1), the Commission shall notify and consult with the relevant regulatory authorities if the intended market study or market inquiry will investigate a sector over which the regulatory authority has jurisdiction.

(3) The Commission shall conduct a market study or market inquiry referred to in subregulation (1) using an explicit methodological framework, as it consider appropriate.

(4) The terms of reference of the market study or market inquiry may require the team of investigators to consider certain impediments to competition and examine their effects on competition, consumer welfare and any other economic benefits.

Evaluating effects on competition and consumer welfare

40.—(1) In conducting the market study or market inquiry, the investigation team shall—

(*a*) identify and evaluate effects on competition or consumer welfare, together with any other economic or technical effects arising from the behaviour or arrangements under scrutiny;

(*b*) consider what shall be the effect of changes designed to eliminate or reduce any adverse effects on competition or consumer welfare that had been identified;

(*c*) attempt to carry out some analysis of the effects of the changes referred to in paragraph (*b*), in addition to collecting a range of views; and

(*d*) seek the views of relevant stakeholders in the sector such as experts, Government departments, industry players, consumers, associations and other interested parties.

(2) After considering and analyzing the data that has been collected, the investigation team may—

(*a*) take into account any modifications decided in the review;

(*b*) revise their findings; or

(*c*) draw up a plan of operations for a further study.

Final report

41.—(1) Where a market study or market inquiry was initiated after a request from a regulatory body, the Secretariat shall, before publishing the final report, meet the representatives of the regulatory body concerned, in order to discuss the report and validate its conclusions and recommendations.

(2) The Commission shall, at the end of a market study or market inquiry, prepare a final report, setting out—

(*a*) the necessary facts and reasoning;

(*b*) the conclusions reached on the study or inquiry; and

(*c*) any recommendations, if any.

(3) The Commission shall—

(*a*) publish the report of the market study or the market inquiry as provided under section 34 (3) of the Act; and

(*b*) ensure that the requirements regarding confidentiality of material have been complied with.

(4) Where the study or inquiry under this regulation was initiated by the Minister, the report shall, within fourteen days of publication, be made available to the Minister.

(5) Where the study or inquiry was initiated by a regulatory body, the report shall be made available to that regulatory body within fourteen days of publication.

PART X—INTERIM MEASURES

Issuance of orders of interim measures

42.— Where the Commission makes an order for an interim measure under section 23 of the Act, the Commission shall—

(*a*) notify the concerned enterprise within forty-eight hours of the making of the order; and

(*b*) give an opportunity to the concerned enterprise to be heard, in writing, within fourteen days after the making of the order.

Contents of order of interim measures

43.— An order for an interim measure made by the Commission shall—

(*a*) be in writing;

(*b*) be signed by the Chairperson or any other member of the Commission, upon delegation by the Chairperson, in writing;

(*c*) specify the conduct under investigation;

(*d*) provide for the factual and legal grounds upon which the interim measure is based;

(*e*) direct the acts to be undertaken or refrained from;

(*f*) indicate the effective date and duration of the order; and

(*g*) advise the concerned enterprise of its right to apply to Court to set aside the order as provided under section 23(2) of the Act.

Application to Court to set aside order of interim measure

44.—(1) A person or enterprise affected by an order of an interim measure may, within fourteen days of receiving the order, apply to the Court to have the order set aside or varied.

(2) The Court may set aside or vary the order of an interim measure if the Court is of the opinion that—

(*a*) the Commission acted unreasonably or without sufficient grounds;

(*b*) the matter was not urgent; or

(*c*) the risk of serious or irreparable harm was not established.

(3) The filing of an application referred to under subregulation (1) shall not suspend the operation of the order of an interim measure, unless the Court orders otherwise.

Application to Court to set aside order of interim measure

45.—(1) An order of an interim measure shall remain in force until—

(*a*) the Commission concludes its investigations and makes a final decision on the matter;

(*b*) the Commission withdraws or revokes the order; or

(*c*) the order is varied or set aside by the Court.

(2) The Commission may review, vary, or revoke an order of an interim

measure, at any time, upon—

(*a*) its own motion; or

(*b*) application by the enterprise affected by the order, showing new or changed circumstances.

PART XI—MISCELLANEOUS

Form of notices issued by the Commission

46.—(1) Where the Commission is required to issue a notice to a party under any provision of the Act, the notice shall contain—

(*a*) the name of any person directly affected by the notice;

(*b*) the file number assigned by the Commission to the relevant matter;

(*c*) the provision of the Act under which the notice is required; and

(*d*) a brief and concise description of the nature of the relevant matter.

(2) Where a notice issued by the Commission invites submissions, the notice shall also contain the last date on which submissions may be received.

(3) Where a notice under the Act is aimed at communicating a decision that has been made by the Commission, that notice shall contain—

(*a*) a brief and concise description of the nature of relevant decision;

(*b*) a statement indicating whether reasons for the decision have been published, and if so, how a copy of those reasons may be obtained; and

(*c*) a statement of any right of review of, or appeal from that decision, including the period during which a review or appeal may be lodged.

Claim of confidentiality

47.—(1) A person who supplies any information or makes submissions to the Commission may claim confidentiality on any material submitted.

(2) The provisions of this subregulation (1) shall not apply to any information that was already in the public domain at the time when the information is being submitted or the time the claim for confidentiality is being made.

(3) In the case of oral submission, the claim may be made orally at the time of giving the information and in all other cases it shall be in writing, signed by the person making the claim specifying the material and stating the reason for the claim.

(4) A person claiming confidentiality under subregulation (1) shall clearly identify the material that is considered to be confidential and state the reasons for the claim in the form as prescribed in Form X of the *Schedule*.

(5) Where the Commission is satisfied that a material is of a confidential nature and—

(*a*) its disclosure could adversely affect the competitive position of any person; or

(*b*) is commercially sensitive for some other reason,

the Commission shall grant confidentiality for the material.

(6) The Commission shall give notice, in writing, to a person making a claim for confidentiality of the Commission's decision to grant or refusal to grant confidentiality.

(7) Where the Commission refuses to grant confidentiality, the notice given by the Commission under subregulation (6) shall include the reasons for the refusal.

(8) Notwithstanding the fact that the Commission has granted a claim for confidentiality under subregulation (6), the Commission may disclose the material—

(*a*) at any time without notice to any other person if—

(i) the disclosure is made to another person who is also performing a function under this Act;

(ii) the disclosure is made with the consent of the person who gave the material;

(iii) the disclosure is authorized or required under any other written law; or

(iv) the disclosure is authorized or required by a court; or

(*b*) if the Commission is of the opinion that—

(i) disclosure of the material would not cause detriment to the person supplying it or the person to whom it relates; or

(ii) although the disclosure of the material would cause detriment to the person supplying it or the person to whom it relates, the public benefit in disclosing it outweighs the detriment, and the Commission has given fourteen days, prior written notice to that person of its intention to disclose the material pursuant to this provision.

(9) Any person who is aggrieved by a decision of the Commission under this section not to grant a claim for confidentiality for material or to disclose confidential material may, appeal in writing to the Commission against the decision.

(10) Any person who remains dissatisfied with the decision of the Commission, notwithstanding subregulation (9), may appeal to the Court against the decision.

(11) The Commission shall continue to treat the material as confidential pending determination of the appeal lodged under subregulation (9) and (10).

SCHEDULE

LIST OF FORMS

FORM I

APPLICATION FOR AUTHORIZATION FORM (reg. 5 (1))

COMPETITION AND FAIR TRADING ACT

APPLICATION FOR AUTHORIZATION FORM

Application is hereby made under section 30 of the Competition and Fair Trading Act, 2024.

Application for an authorization to make an agreement of which the object, effect or likely effect of the agreement is to appreciably prevent, restrict or distort competition .

This Application shall be accompanied by the prescribed filing fees

This form is a public record. However, the attached description of conduct, and other information relating to this application is not part of the public record. You have a right to identify information that you believe is confidential by completing a Confidentiality Claim Form and submitting it with this Form.

FOR OFFICE USE ONLY	
COMMISSION FILE NUMBER	
DATE FILED	

1. Applicant

(*a*) Name of Applicant

....

....

In lodging this form, applicants must include all information, including supporting evidence, that they wish the Commission to take into account in assessing the application for authorization.

(*b*) Short description of business carried on by Applicant including an overview of the relevant markets in which it operates, the approximate market share in those markets and the relationship of those markets to other relevant markets in the supply chain

....

....

(*c*) Address in Malawi for service of documents on the Applicant

....

....

2. Agreement

(*a*) Description of the conduct or agreement, whether proposed or actual, for which authorization is sought

....

....

(*b*) Description of conduct or those provisions of the agreement that are, or would or might, prevent, restrict or distort competition in Malawi

....

....

(*c*) Description of the goods, digital products or services to which the conduct or agreement (whether proposed or actual) relates

....

....

(*d*) The term for which authorization of the conduct or agreement (whether proposed or actual) is being sought and grounds supporting this period of authorization

....

....

(*e*) Please list any authorizations previously requested by each applicant, the restrictive arrangements meriting the authorization exemption, the date of the requests, whether such authorizations exemptions were granted or denied, and if still in effect, whether the applicant is still relying on the authorization exemption

....

....

Where the application is made by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the application, and the application is to be signed by a person authorised by the corporation to do so.

Describe that part of the applicant's business relating to the subject matter of the agreement in respect of which the application is made.

Provide details of the conduct or agreement (whether proposed or actual) in respect of which the authorization is sought. Provide details of those provisions of the agreement that are, or would or might, substantially lessen competition. In providing these details: (a) to the extent that any of the details have been reduced to writing — provide a true copy of the writing; and (b) to the extent that of any of the details have not been reduced to writing — provide a full and correct description of the particulars that have not been reduced to writing.

Ibid.

3. Parties to the proposed arrangement

(*a*) Names, addresses and descriptions of business carried on by other parties or proposed parties to the conduct or proposed or actual agreement

....

....

(*b*) Names, addresses and descriptions of business carried on by parties and other persons on whose behalf this application is made

GROUNDS FOR GRANTING THE AUTHORIZATION

A. The grounds for claiming that the notified conduct does not and will not unduly restrain competition nor have an adverse effect on trade or the economy in general:

B. Facts and evidence relied upon in support of these claims

....

....

....

Note: *The Commission will need to be satisfied that the conduct is consistent with the objectives of the Act*

4. Public Detriments

(*a*) ....

....

(*b*) ....

....

Detriments to the public resulting or likely to result from the authorization, in particular the likely effect of the agreement on the prices of the goods or services described at paragraph 2(c) and the prices of goods or services in other affected markets. Provide details of the detriments to the public which may result from the proposed agreement including quantification of those detriments where possible.

5. Market Definition

(*a*) *Product Market*

Provide a description of the market, i.e., the goods or services provided including a range of substitutes available for the relevant goods or services, and any restriction on the supply or acquisition of the relevant goods or services.

(*b*) *Geographical Market*

Provide the location and distribution systems prevailing on the affected markets and their importance

(*c*) Market shares of the applicant and its competitors

6. Further Information and supporting documentation (Name and address of person authorised by the applicant to provide additional information in relation to this application and supporting documentary evidence to demonstrate how the requested authorisation would be in the public interest

DECLARATION

The undersigned declare that, to the best of my and/or our knowledge and belief, the information given in this application and its attachments are true, correct and complete, that complete copies of documents required by this form have been supplied, and that all estimates are identified as such and are their best estimates of the underlying fact and that all the opinions expressed are sincere.

The undersigned understands that it is an offence under the Act to supply false or misleading information.

Dated at........................ this..............day of............................year.......

Name(s) and Position(s)

:...

....

FORM II

APPLICATION FOR AN ADVISORY OPINION (reg. 8 (1))

COMPETITION AND FAIR TRADING COMMISSION

APPLICATION FOR NON-BINDING WRITTEN OPINION

(Section 33 of the Competition and Fair Trading Act, 2024)

PART A: APPLICANT DETAILS

1. Full Name of Applicant (Individual/Enterprise): ....
2. Business Registration Number (if applicable): ....
3. Postal Address: ....
4. Physical Address: ....
5. Telephone Number(s): ....
6. Email Address: ....
7. Contact Person (if applicant is an enterprise): ....

PART B: SUBJECT MATTER OF THE APPLICATION

1. Provision(s) of the Act for which written opinion is sought:

   ....

2. Description of conduct, transaction, or arrangement in question:

(Provide sufficient detail for the Commission to understand the factual background. Attach supporting documents as necessary.)

....

....

3. Specific question(s) on which the applicant seeks guidance:

....

....

....

PART C: SUPPORTING DOCUMENTATION

Tick and attach the following (*where applicable*):

- Prescribed fee payment receipt.
- ☐ Relevant agreements, contracts, or draft arrangements.
- ☐ Corporate documents (registration/incorporation certificates).
- ☐ Any other supporting material (please specify): ....
  ☐..

PART D: DECLARATION

I/We, the undersigned, hereby declare that the information provided in this application and attached documents is true, correct, and complete to the best of my/our knowledge.

I/We understand that the opinion sought is nonbinding and does not constitute a decision of the Commission under the Act.

Name of applicant/authorized representative: ....

Signature: ....

Date: ....

FOR OFFICIAL USE ONLY

- Application Reference Number: ....
- Date Received: ....
- Application Complete: Yes / No
- Assessed by (Officer): ....
- Remarks: ....

FORM III

ANTI-COMPETITIVE BUSINESS PRACTICE COMPLAINT FORM (reg. 9(2)(*b*))

COMPETITION AND FAIR TRADING COMMISSION

COMPETITION COMPLAINT FORM

This form is a public record. However, the attached description of conduct and other information relating to this complaint is not part of the public record unless the Commission pursues full enforcement action and refers the conduct complained of to the members of the Commission for resolution. You have a right to identify information that you believe is confidential by completing the Confidentiality Claim Form and submitting it with this Form.

I. DETAILS OF COMPLAINANT (*natural or legal person submitting this Complaint*):

Full Names of Complainant:	Website:

Contact Details

- Postal Address:
- Physical Address:
- Contact Person

Phone:	Alternative Phone:	Email:
....	....	....

Brief description of your business activities (*industry sector, products/services, etc.*) (*if applicable*):

....

Is this complaint being filed jointly with other natural and/or legal person(s)? YES NO

If YES, please provide their name(s), contact details and other relevant information

....

....

....

Indicate the position of the Complainant vis-à-vis the business or company complained against (*e.g., customer, competitor*).

....

II. WHO IS YOUR COMPLAINT AGAINST (*business or company*):

Full Names:

Contact Details

- Postal Address:
- Physical Address:
- Contact Person

Phone:	Alternative Phone:	Email:
....	....	....

Other Contact Details of the Business Complained Against:

....

Website:

....

Brief description of business activities (*industry sector, products/services, etc.*):

....

III. OTHER PARTIES INVOLVED IN THE ALLEGED CONDUCT (IF APPLICABLE):

Full Names:

Contact Details

- Postal Address:
- Physical Address:
- Contact Person

Phone:	Alternative Phone:	Email:
....	....	....

Other Contact Details of the Party:

....

Website:

....

Brief description of business activities (*industry sector, products/services, etc.*):

....

Full Names:

Contact Details

- Postal Address:
- Physical Address:
- Contact Person

Phone:	Alternative Phone:	Email:
....	....	....

Other Contact Details of the Party:

....

Website:

....

Brief description (*industry sector, products/services, etc.*):

....

If this Complaint involves more than three (3) parties, please provide their names and contact information on a separate sheet.

IV. DETAILS OF THE COMPLAINT:

Please provide a comprehensive statement of the conduct that is the subject of this Complaint:

- Set out in detail the facts from which, in your opinion, it appears that there exists an infringement of section .... of the Competition and Fair Trading Act, 2024.
- Indicate in particular the nature of the products (goods or services) affected by the alleged infringements and explain, where necessary, the commercial relationships concerning these products.

Provide all available details on the agreements or practices of the business or company to which this complaint relates.

Indicate, to the extent possible, the relative market positions of the business (es) or company(ies) concerned by the complaint.

Geographical Scope:

Set out your view about the geographical scope of the alleged infringement

If you need more space, please attach extra sheets to this document.

V. SUPPORTING DOCUMENTS:

Submit all documentation in your possession relating to or directly connected with the facts set out in the complaint (for example, texts of agreements, minutes of negotiations or meetings, terms of transactions, business documents, circulars, correspondence, notes of telephone conversations...).

Submit statistics or other data in your possession which relate to the facts set out, in particular where they show developments in the marketplace (for example information relating to prices and price trends, barriers to entry to the market for new suppliers etc.).

State the names and address of the persons able to testify to the facts set out in the complaint, and in particular of persons affected by the alleged infringement.

V. REMEDY/ RESOLUTION SOUGHT

VI. PROCEEDINGS BEFORE OTHER ENFORCEMENT REGULATORS OR AUTHORITIES AND/OR COURTS

Provide full information about whether you have approached, concerning the same or closely related subject-matters, any other authority or sector regulator and/or whether a lawsuit has been brought before a court. If so, provide full details about the administrative or judicial authority contacted and your submissions to such authority.

VII. DECLARATION:

I, declare that the information given/supplied by me to the Competition and Fair Trading Commission in this Complaint and all supporting documents attached hereto is accurate to the best of my knowledge

Name: .... Position: ....

Signature: .... Date: ....

FOR OFFICIAL USE ONLY

PART A

Complaint Registered by: ....

- Method of lodging a complaint: ....
- Complaint registered at: ....

SIGNATURE: .... DATE: ....

PART B PROPOSED ACTION:

After a preliminary analysis and desk review of the complaint, there is a suspected violation of section .... of the Competition and Fair Trading Act, 2024 or section .... of the Consumer Protection Act. In view of this, the following action is recommended;

(A) Launch investigations on suspected violation of the Competition and Fair Trading Act, 2024 or the Consumer Protection Act

(B) Request more information from complainant or any other parties.

(C) Refer to other institutions

(D) Recommend dismissal of the case due to insufficient evidence or lack of merit.

Name of Case Officer : ....

Signature : ....

Date : ....

AUTHORIZING DIRECTOR

Name : ....

Signature : ....

Date : ....

PART C

In terms of section 8 (2) (*a*) of the Competition and Fair Trading Act, 2024 I hereby authorize officers of the Commission to take the following actions.

1. Investigate the complaint
2. Dismiss the complaint at preliminary stage due to insufficient evidence or lack of merit
3. Refer the complaint to another institution

Decision made by : ....

Name : ....

Signature : ....

Date : ....

FORM IV

UNFAIR TRADING PRACTICE COMPLAINT FORM (reg. 9(2)(*b*))

COMPETITION AND FAIR TRADING COMMISSION

CONSUMER COMPLAINT FORM

This form is a public record. However, the attached description of conduct and other information relating to this complaint is not part of the public record unless the Commission pursues full enforcement action and refers the conduct complained of to the members of the Commission for resolution. You have a right to identify information that you believe is confidential by completing the Confidentiality Claim Form (Form....) and submitting it with this Form.

1. YOUR INFORMATION	2. WHO IS THE COMPLAINT AGAINST?
☐ ☐ ☐ ☐	
Name	Name of Person/Company/Business
....	....
Postal Address	Postal Address
....	....
Physical Address	Physical Address:
....	....
Phone Number	Email
....	....
Alternative phone Number	Website
....	....
E-mail	Phone
....	....
Occupation:	Person(s) you dealt with
....	....
Nationality:	Sector
....	....
Do you want to remain anonymous?	
☐ Yes ☐ No	

3. INFORMATION ABOUT THE TRANSACTION OR INCIDENT.

(*a*) Date of Transaction or incident: ....

(*b*) If you transacted,

(i) did you sign a contract? .... yes, attach copy of contract

(ii) did you receive a receipt? .... if yes, attach

(*c*) Name of a product/Service or technology involved ....

(*d*) Did you pay for the transaction? If yes, how much? ....

(*e*) District in which the transaction took place: ....

1. RESOLUTION SOUGHT

2. What would you consider a satisfactory resolution to this matter?

☐ (A) Refund ☐ (D) Service Rendered

☐ (B) Goods Delivery Exchange ☐ (E) Stop engaging in misconduct

☐ (C) Exchange .... ☐ (F) Other ....

If you are seeking a refund, please state amount in Kwacha. ....

5. ACTION YOU HAVE TAKEN

(*a*) Have you or anybody else complained to the business or company?

☐ (Yes) ☐ (No)

Where applicable, attach a copy of the complaint.

(*b*) How did you lodge the complaint? ....

(*c*) Date of Complaint .... Person Contacted ....

(*d*) Action taken/response: ....

(*e*) Have you complained to another institution? (Yes) ☐ (No) ☐

(i) If Yes, which institution .... and when ....

(ii) What Action was taken ....

How did you lodge the complaint? ....

(*f*) Have you engaged lawyer (A) Yes ☐ (B) No ☐

(*g*) Have you started a court action (A) Yes ☐ (B) No ☐

If yes, attach court documents

6. DESCRIBE YOUR COMPLAINT IN DETAIL.

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SIGNATURE: ....DATE: ....

SEND COMPLETED FORM TO:

The Chief Executive Officer, Competition and Fair Trading Commission, MERA Office Complex; Next to Lilongwe Civic Offices; Along Convention Drive, City Centre, Private Bag 332, Lilongwe. Phone: +265 (0)891001441; Email: competitioncommission@cftc.mw / consumer@cftc.mw; Website: www.cftc.mw, Toll Free line: 2489, WhatsApp: +265(0)987738749

WHAT WILL HAPPEN NOW?

The Competition and Fair Trading Commission will assess the complaint and launch an investigation if there is reasonable suspicion of a possible violation of the Competition and Fair Trading Act, 2024 or the Consumer Protection Act.

7. FOR OFFICIAL USE ONLY

PART A

Complaint Registered by: ....

- Method of lodging a complaint: ....
- Complaint registered at: ....

  SIGNATURE: ....DATE: ....

PART B PROPOSED ACTION:

After a preliminary analysis and desk review of the complaint, there is a suspected violation of section ....of the Competition and Fair Trading Act, 2024 or section .... of the Consumer Protection Act. In view of this, the following action is recommended;

(E) Launch investigations on suspected violation of the Competition and Fair Trading Act, 2024 and Consumer Protection Act

(F) Request more information from complainant or any other parties.

(G) Refer to other institutions

(H) Recommend dismissal of the case due to insufficient evidence or lack of merit.

Name of Case Officer : ....

Signature : ....

Date : ....

AUTHORIZING DIRECTOR

Name : ....

Signature : ....

Date : ....

PART C

In terms of section 8 (2)(*a*) of the Competition and Fair Trading Act, 2024, I hereby authorize officers of the Commission to take the following actions.

1. Investigate the complaint
2. Dismiss the complaint at preliminary stage due to insufficient evidence or lack of merit
3. Refer the complaint to another institution

Decision made by : ....

Name : ....

Signature : ....

Date : ....

FORM V

SUMMONS TO GIVE EVIDENCE OR PRODUCE DOCUMENTS (reg. 12(4))

COMPETITION AND FAIR TRADING ACT, 2024

SUMMONS TO GIVE EVIDENCE AND PRODUCE DOCUMENTS

FOR OFFICE USE ONLY	
COMMISSION FILE NUMBER	
DATE FILED	

1 Name of the Case ....

2 File Number of the Case ....

3 Address and Name of Witness ....

....

4 You are Summoned to-

Please tick [ ]

☐ Appear before the Competition and Fair Trading Commission pursuant to section 21 of the Competition and Fair Trading Act, 2024 as read together with regulation 12 of the Competition and Fair Trading Regulations, 2026 ....

on .... day, the .... day of .... 20.............,

at .... am/pm to give such evidence as you know concerning this application.

☐ You are not required to bring any documents with you.

☐ You are required to bring with you and produce for examination the following documents as may be in your possession or control:

....

....

IF YOU FAIL TO APPEAR, OR OTHERWISE FAIL TO COMPLY WITH THIS SUMMONS YOU COMMIT AN OFFENCE AND MAY BE FINED K5,000,000.00 IF YOU ARE A NATURAL PERSON OR K50,000,000.00 IF YOU ARE A COMPANY

5 Name, address and title of signatory ....

....

....

Signature .... Date ....

FORM VI

THIRD PARTIES APPLICATION TO ATTEND HEARING (reg. 18(4))

THIRD PARTY APPLICATION TO ATTEND HEARING

Ref No. .... Date: ....

(*insert Recipient address*)

Dear Sir/Madam,

RE: APPLICATION TO ATTEND HEARING: ALLEGED..............................insert subject

In accordance with section 21(2)(*a*) of the Competition and Fair Trading Act, 2024 as read together with Regulation 18 (4) of the Competition and Fair Trading Regulations, 2026 and having sufficient interest in the matter mentioned above, I would like to request for an opportunity to attend a hearing to give evidence of the matter.

I can demonstrate my sufficient interest by…............(*insert explanation of interest in case*).

Yours faithfully,

(*insert name*)

FORM VII

SUMMONS REQUIRING A PERSON TO ATTEND HEARING (reg. 19(9))

COMPETITION AND FAIR TRADING ACT, 2024
SUMMONS TO ATTEND HEARING

FOR OFFICE USE ONLY	
COMMISSION FILE NUMBER	
DATE FILED	

1 Name of the Case ....

2 File Number of the Case ....

3 Address and Name of Witness ....

....

4 You are Summoned to-

Please tick [ ]

☐ Appear before the Competition and Fair Trading Commission pursuant to section 21(1)(*a*) of the Competition and Fair Trading Act, 2024 as read together with regulation 19(9) of the Competition and Fair Trading Regulations, 2026 ....

on .... day, the .... day of .... 20............,

at .... am/pm to give such evidence as you know concerning this matter.

☐ You are not required to bring any documents with you.

☐ You are required to bring with you and produce for examination the following documents as may be in your possession or control:

....

....

IF YOU FAIL TO APPEAR, OR OTHERWISE FAIL TO COMPLY WITH THIS SUMMONS YOU COMMIT AN OFFENCE AND MAY BE FINED K5,000,000.00 IF YOU ARE A NATURAL PERSON OR K50,000,000.00 IF YOU ARE A COMPANY

5 Name, address and title of signatory ....

....

....

Signature .... Date ....

FORM VIII

APPLICATION FOR A MERGER (reg. 30(1))

COMPETITION AND FAIR TRADING ACT, 2024

(No. 20 of 2024)

APPLICATION FOR AUTHORIZATION OF A PROPOSED MERGER/ TAKEOVER/ ACQUISITION

(*section 43(1) of Competition and Fair Trading Act, 2024*)

TO: The Chief Executive Officer
Competition and Fair Trading Commission,
MERA Office Complex, 1st Floor
Along Convention Drive
Next to Lilongwe Civic Offices
Private Bag 332, Lilongwe 3
Telephone: +265891001441
Toll Free line: 2489
Email: competitioncommission@cftc.mw
Website: www.cftc.mw

PART 1

BACKGROUND INFORMATION

1. Information from the Applicant/s

(*a*) Name of the business/Company Applying

(*b*) Contact Details of Applicant:

Postal Address:

....

....

Physical Address:

....

....

Email Address:

....

....

Phone:

....

....

Name and Phone for Contact Person

....

....

(*c*) Nature of the Applicant's business:

....

....

2. Information on the other parties to the arrangement:

For each party to the arrangement (except the applicant) give details of:

(*a*) Name of the other party/business/company

....

....

Contact Details

Postal Address:

....

....

Physical Address:

....

....

Email Address:

....

....

Phone:

....

....

Name and Phone for Contact Person/Legal Representative

....

....

(*b*) Nature of the other parties/ business:

....

....

3. Address of Service:

Give an address to which all communications may be made and documents delivered

....

....

4. Appointment of Representatives.

Where applications are signed by representatives of the Applicant, such representatives shall produce written proof that they are authorized to act. Please attach proof of appointment.

5. If a joint notification is being submitted, has a joint representative been appointed?

5.1 If yes, please give details requested below:

(*a*) Name of representative ....

(*b*) Address of representative ....

(*c*) Name of person to be contacted (if different from (*b*) above).

....

(*d*) Email Address: ....

Phone: ....

5.2. If no, please give details below of information of any representatives who have been authorized to act for each of the parties to the application, indicating whom they represent.

(*a*) Name of representative:

....

....

(*b*) Address of representative:

....

....

....

(*c*) Name of person to be contacted (and address, if different from (*b*) above)

....

....

....

(*d*) Email Address: ....

Phone: ....

PART 2

OWNERSHIP AND CONTROL

6. For each of the parties to the transaction, provide the following:

6.1 Names and addresses of the current and past (two years) Directors of each of the parties:

....

6.2 Names and addresses of the current and past (for two years) shareholders of each of the parties:

....

....

6.3 All undertakings of the parent enterprise or any other controlling these parties, directly or indirectly:

....

....

6.4 All undertakings active on any relevant market that are controlled, directly or indirectly:

(*a*) by these parties ....

....

(*c*) by any other undertaking identified in 6.3 above ....

....

For each entry listed above, the nature and means of control shall be specified pursuant to section 38 of the Competition and Fair Trading Act, 2024, and includes the ability to influence materially the commercial policy of an enterprise

PART 3

DETAILS OF THE TRANSACTION

7. Briefly describe the nature of the transaction. In doing so state:

(*a*) Whether the proposed transaction is a full legal merger, an acquisition of sole or joint control, a concentrative joint merger or other means of conferring direct or indirect control

....

....

(*b*) Whether the whole or parts of parties are subject to the transaction

....

....

(*c*) A brief explanation of the economic and financial structure of the transaction

....

....

(*d*) A brief explanation of the rationale for the transaction

(*e*) The proposed or expected date of any major events designed to bring about the completion of the transaction

....

....

(*f*) For each of the transacting parties, state:

(i) the value of the annual turnover in, into or from Malawi for the preceding financial year and as at the date of the decision to merge;

(ii) the value of the assets in Malawi at the end of the preceding financial year and as at the date of the decision to merge; and

(iii) the relevant markets where the merging parties hold 40 percent or more market share combined.

(*g*) State the value of the transaction using a value scale based on purchase price, value of all assets or interests relevant to the transaction.

(*h*) The proposed structure of ownership and control after the completion of the transaction

....

....

Please provide a non-confidential executive summary of the transaction setting out details of the proposed transaction, including the parties to the concentration, the nature of the concentration (e.g. merger, acquisition, joint venture), the areas of activity of the merging parties, the relevant markets on which they operate, the industry sector(s) impacted by the transaction, and the strategic and economic rationale for the concentration.

PART 4

MARKET STRUCTURE

Please list the relevant product markets in which each of the parties to the transaction operate and the geographic scope in which the products are sold.

For each relevant market, please provide for the last three years in Malawi:

(*a*) an estimate of the total size of the market in terms of sales value and volume (units). Indicate the basis and sources for the calculations and provide documents where available to confirm these calculations;

(*b*) the sales in value and volume, as well as an estimate of the market shares, of each of the parties to the transaction;

(*c*) an estimate of the market share in value (and where relevant, volume) of all competitors (including importers);

(*d*) an estimate of the total value and volume and source of imports from outside of Malawi and identify:

(i) the proportion of such imports that are derived from the groups, as defined in the Competition and Fair Trading Act, 2024 to which the parties to the concentration belong; and

(ii) an estimate of the extent to which any quotas, tariffs or non-tariff barriers to trade, affect these imports;

(*e*) the manner in which the parties to the transaction produce, price and sell the products and/or services; for example, whether they manufacture and price locally, or sell through local distribution facilities.

If the parties to the transaction purchase products or services from one another or supply products or services to one another, please provide the list of products and services purchased or supplied and gross annual revenues associated with the purchase or sale of these products or services.

Structure of Supply in Affected Markets

8. Explain the distribution channels and service networks, if any, that exist in affected markets taking into account the following where appropriate:

8.1 Distribution systems prevailing on the affected markets and their importance

....

....

8.2 The service networks performed by third parties prevailing and their importance

....

....

8.3 What is the significance of import competition in the affected market?

....

....

Structure of Demand in Affected Markets

9. Identify five largest customers, competitors and suppliers of the notifying parties in each affected market stating their individual share of the total sales of the goods and services attributed to each customer.

....

....

9.1 State the name, address, mobile number, telephone numbers of the contact person for each customer mentioned in 9. Above.

....

9.2 Explain the structure of demand in terms of:

(*a*) take off /expansion /maturity and decline or forecast of the growth rate of demand:

....

....

(*b*) the significance of customer preference in terms of brand loyalty/ product differentiation or provision of full range of products.

....

....

(*c*) the degree of concentration or dispersion of customers.

....

(*d*) segmentation of customers into different groups and describe the "typical customer" of each group ....

....

(*e*) the significance of exclusive distribution contracts and other types of long term contracts ....

(f) The extent to which public authorities like government agencies, state enterprises or similar bodies are important participants as a source of demand ....

....

10. Please summarize any provisions contained in the agreements which may restrict the parties in their freedom to take independent commercial decisions, for example regarding:

(a) buying or selling prices, discounts or other trading conditions;

....

(b) the quantities of goods to be manufactured or distributed or services to be offered;

....

(c) technical development or investment;

....

(d) the choice of markets or services of supply;

....

(e) purchases from or sales to third parties;

....

(f) whether to apply similar terms for the supply of equivalent goods and services;

....

(g) whether to offer different services separately;

....

11. What is the corresponding share of each market currently held by the acquiring enterprise (the other enterprise involved in the proposed merger) in the relevant market?

....

....

....

PART 5

MARKET ENTRY

12. State whether there has been significant entry into any of the affected markets over the past five years ....

....

....

13. If there has been significant entry into the market provide names, addresses, emails, phone numbers, and contact persons of market entrants ....

....

....

14. In the opinion of the parties making this notification, are there any undertakings likely to enter the market in the next two years? ....

....

....

15. If there is likely to be new entrants in the market, give names, emails, phone numbers, addresses and contact numbers of such entrants ....

....

....

16. Give an estimate of the period within which such entry is likely to occur, if possible

....

17. Describe the various factors influencing entry into affected markets that exist in the present case, examining entry from both a geographical and product view point. In so doing, take account of the following where appropriate:

(*a*) the total costs of entry (research and development, establishing distribution systems, promotion, advertising, servicing etc) on a scale equivalent to a significant viable competitor, indicating the market share of such a competitor;

....

....

(*b*) any legal or regulatory barriers to entry, such as government authorization or standard setting in any form;

....

....

(*c*) any restrictions created by existence of patents, know-how and other intellectual property rights in these markets and any restrictions created by licensing such rights;

....

....

(*d*) the extent to which each of the parties to the transaction are licensees or licensors of patents, knowhow and other rights in the relevant markets;

....

....

(*e*) the importance of economies of scale for the production of products in the affected markets;

....

....

(*f*) access to sources of supply, such as availability of raw materials.

....

....

....

PART 6

FULL DETAILS OF THE ARRANGEMENT

18. If the proposed merger or acquisition is authorized, what is the estimated Market share of the combined enterprise following the merger or acquisition in the relevant market?

....

PART 7

GROUNDS FOR GRANTING THE AUTHORIZATION

19. The grounds for claiming that the notified conduct does not and will not unduly restrain competition nor have any adverse effect on trade or the economy in general

....

....

....

19.1 Facts and contentions relied upon to substantiate this claim. This may include:

(*a*) Competitive effects

....

(*b*) Efficiencies

....

(*c*) Failing firms

....

(*d*) Public interest issues e.g., employment, export development, increased tax, consumer welfare, technological transfer, multi-national corporation, presence, market development, etc.).

....

....

(*e*) Any other relevant information

....

....

Note: *The Commission will need to be satisfied that the agreement is consistent with the objectives of the Act.*

3. *The Commission only requests the submission of information relevant and necessary to its inquiry into the notified operation. If you consider that any particular information requested by this form may not be necessary for the Commission's examination of the case, you may explain this in your notification and ask the Commission to dispense with the obligation to provide that information.*

4. *Incorrect or misleading information in the notification will be considered to be incomplete information. The notification will only become effective on the date on which the complete and accurate information is received by the Commission. Section 70(b) of the Act provides that misleading or incorrect information where supplied intentionally or negligently can make the notifying party or parties liable to a fine or imprisonment or to both.*

5. *The Commission can revoke its decision on the compatibility to a notified concentration or business practice where it is based on incorrect information for which one of the undertakings is responsible. Each party completing the notification is responsible for the accuracy of the information which it provides.*

6. *The application must be completed in English and type-written or printed. The information requested by this Form is to be set out using the sections and paragraph numbers of the Form. The supporting or requested documents may be originals or copies of the originals. In the later case the notifying party shall confirm that they are true and complete.*

7. *CONFIDENTIALITY: If you believe that your interests would be harmed if any of the information you are asked to supply were to be published or otherwise divulged to other parties, submit this information separately with each page clearly marked "Business Secrets". You should also give reasons why this information should not be divulged or published.*

8. *The notification should be delivered during normal working hours at the following address:*

Competition and Fair Trading Commission,

MERA Office Complex, 1st Floor

Along Convention Drive

Next to Lilongwe Civic Offices

Private Bag 332, Lilongwe 3

Telephone: +265891001441

Toll Free line: 2489

Email: competitioncommission@cftc.mw

Website: www.cftc.mw

FORM IX

APPLICATION FOR A NEGATIVE CLEARANCE (reg. 30 (2))

COMPETITION AND FAIR TRADING ACT, 2024

APPLICATION FOR NEGATIVE CLEARANCE

TO: The Chief Executive Officer
Competition and Fair Trading Commission,
MERA Office Complex, 1st Floor
Along Convention Drive
Next to Lilongwe Civic Offices
Private Bag 332, Lilongwe 3
Telephone: +265891001441
Toll Free line: 2489
Email: competitioncommission@cftc.mw
Website: www.cftc.mw

PART 1

BACKGROUND INFORMATION

1. Information from the applicant/s
   (*a*) Name of the business/company applying:
   (*b*) Contact details of applicant:
   Postal Address:
   ....
   ....
   Physical address:
   ....
   ....
   Email address:
   ....

Phone:

....

Name and phone for contact person:

....

....

(*b*) Nature of the applicant's business:

....

....

2. Information on the other parties to the arrangement:

For each party to the arrangement (except the applicant) give details of:

(*a*) Name of the other party/business/company:

....

....

Contact Details

Postal Address:

....

....

Physical Address:

....

....

Email Address:

....

Phone:

....

Name and phone for contact person/legal representative.

....

....

(*b*) Nature of the other parties/ business:

....

....

3. Address of service:

Give an address to which all communications may be made and documents delivered.

....

....

4. Appointment of Representatives.

Where applications are signed by representatives of the Applicant, such representatives shall produce written proof that they are authorized to act. Please attach proof of appointment.

5. If a joint notification is being submitted, has a joint representative been appointed?

5.1 If yes, please give details requested below:

(*a*) Name of representative ....

....

(*b*) Address of representative ....

(*c*) Name of person to be contacted (*if different from (b) above*)...........................

....

(*d*) Email address: ....

Phone : ....

5.2. If no, please give details below of information of any representatives who have been authorized to act for each of the parties to the application, indicating whom they represent.

(*a*) Name of representative: ....

....

(*b*) Address of representative:

....

....

....

(*c*) Name of person to be contacted (*and address, if different from (b) above*)

....

....

....

(*d*) Email Address:

....

Phone:

....

PART 2

DETAILS OF THE TRANSACTION

Describe the nature of the transaction being notified.

....

Describe in detail the nature of any restriction(s) to competition that may arise from the transaction:

....

....

Please provide the turnover or assets of each of the merging parties for the previous financial year

....

....

Please describe the grounds on which negative clearance is being sought (*e.g. merger notification thresholds are not met; no affected markets etc.*)

....

....

PART 3

OWNERSHIP AND CONTROL

For each of the parties to the transaction provide a list of all undertakings belonging to the same group. The list must include:

Names and addresses of the current and past (two years) Directors of each of the undertaking:

....

....

....

....

Names and addresses of the current and past (for two years) shareholders of each of the undertaking:

....

....

....

....

All undertakings or persons controlling these parties, directly or indirectly:

....

....

All undertakings active on any relevant market that are controlled, directly or indirectly:

(*a*) by these parties ....

....

(*b*) by any other undertaking identified above ....

....

PART 4

MARKET STRUCTURE

Structure of Supply in Affected Markets

Explain the distribution channels and service networks, if any, that exist in any market in which the merging parties' activities overlap taking into account the following where appropriate:

Distribution systems prevailing on the relevant markets and their importance.

....

....

The service networks performed by third parties prevailing and their importance.

....

....

What are their market shares and those of other suppliers/manufacturers?

....

....

Describe the level of import competition in the relevant markets?

....

....

Structure of Demand in relevant Markets

Identify five largest customers of the notifying parties in each market in which the parties' activities overlap stating their individual share of the total sales of the goods and services attributed to each customer ....

....

....

....

....

State the name, address, phone numbers of the contact person for each customer mentioned above ....

....

....

....

....

Explain the structure of demand in terms of:

(*a*) take off /expansion /maturity and decline or forecast of the growth rate of demand:

....

....

....

....

(*b*) the importance of customer preference in terms of brand loyalty/ product/services differentiation or provision of full range of products/services.

....

....

(*c*) the degree of concentration or dispersion of customers.

....

(*d*) segmentation of customers into different groups and describe the "typical customer" of each group ....

....

(e) the importance of exclusive distribution contracts and other types of long term contracts ....

(*f*) The extent to which public authorities, such as government agencies, state enterprises or similar bodies are important participants as a source of demand

....

....

PART 5

GROUNDS FOR GRANTING THE AUTHORIZATION

The grounds for claiming that the notified conduct does not and will not unduly restrain competition nor have any adverse effect on trade or the economy in general

....

....

....

Facts and contentions relied upon to substantiate this claim. This may include:

(*a*) Competitive effects

....

(*b*) Efficiencies

....

(*c*) Failing firms

....

(*d*) Public interest issues e.g., employment, export development, increased tax, consumer welfare, technological transfer, multi-national corporation, presence, market development, etc.).

....

....

(*e*) Any other relevant information.

....

....

(Note: *The Commission will need to be satisfied that the agreement is consistent with the objectives of the Act.*)

PART 6

DECLARATION

The undersigned declare that, to the best of my and/or our knowledge and belief, the information given in this notification and its attachments are true, correct and complete, that complete copies of documents required by this form have been supplied, and that all estimates are identified as such and are their best estimates of the underlying fact and that all the opinions expressed are sincere.

The undersigned understands that it is an offence under the Act to supply false or misleading information.

Dated at .... this .... day of .... year ....

Name(s) and Position(s)

:..

....

Signature(s): ....

I/We attach the following relevant documents:

- ☐ Two copies of latest annual report and audited accounts (*including balance sheet*)
- ☐ Copy of agreement or other documents relating to the transaction
- ☐ Press release or other shareholders, board or management statement or minutes of meetings on the transaction
- ☐ Other market or industry study reports that support the transaction
- ☐ Proof of representation

Notes

4. *Experience has shown that pre-notification meetings are extremely valuable to both the notifying party(ies) and the Commission in determining the precise amount of information required in a notification and, in the large majority of cases, will result in a significant reduction of the information required. Accordingly, notifying parties are encouraged to consult the Commission regarding the possibility of dispensing with the obligation to provide certain information.*

5. *If the information required by this Form is not reasonably available to you in part or whole, the Commission will accept that the notification is complete and thus valid notwithstanding the failure to provide such information, provided that you give reasons for the unavailability of the said information, and provide your best estimates for the missing data together with the sources for the estimate. Where possible, indications as to where any of the requested information that is available to you could be provided.*

6. *The Commission only requests the submission of information relevant and necessary to its inquiry into the notified operation. If you consider that any particular information requested by this form may not be necessary for the Commission's examination of the case, you may explain this in your notification and ask the Commission to dispense with the obligation to provide that information.*

6. *Incorrect or misleading information in the notification will be considered to be incomplete information. The notification will only become effective on the date on which the complete and accurate information is received by the Commission. Section 70(b) of the Act provides that misleading or incorrect information where supplied intentionally or negligently can make the notifying party or parties liable to a fine or imprisonment or to both.*

7. *The Commission can revoke its decision on the compatibility to a notified concentration or business practice where it is based on incorrect information for which one of the undertakings is responsible. Each party completing the notification is responsible for the accuracy of the information which it provides.*

9. *The application must be completed in English and type-written or printed. The information requested by this Form is to be set out using the sections and paragraph numbers of the Form. The supporting or requested documents may be originals or copies of the originals. In the latter case the notifying party shall confirm that they are true and complete.*

10. *The form refers to markets in which the merging parties' activities overlap. This includes any horizontal or vertical overlapping activities in any relevant market(s). Please refer to the Commission's Merger Guidelines for further information.*

11. *CONFIDENTIALITY: If you believe that your interests would be harmed if any of the information you are asked to supply were to be published or otherwise divulged to other parties, submit this information separately with each page clearly marked "Business Secrets". You should also give reasons why this information should not be divulged or published.*

12. *The notification should be delivered during normal working hours at the following address:*

The Chief Executive Officer
Competition and Fair Trading Commission,
MERA Office Complex, 1st Floor
Along Convention Drive
Next to Lilongwe Civic Offices
Private Bag 332, Lilongwe 3
Telephone: +265891001441
Toll Free line: 2489
Email: competitioncommission@cftc.mw
Website: www.cftc.mw

FORM X

CONFIDENTIALITY CLAIM FORM (reg. 47 (4))

COMPETITION AND FAIR TRADING ACT, 2024

CONFIDENTIALITY CLAIM FORM

This form is issued under section 68 of the Competition and Fair Trading Act, 2024 as read together with regulation 47 (4) of the Competition and Fair Trading Regulations, 2026.

The Commission shall treat confidentially information or parts of information identified by you in this Form after satisfying itself that the information is confidential and the disclosure of which is not necessary for the exercise of the rights of defence of any party to the Commission's investigation according to the provisions of the Competition and Fair Trading Act, 2024.

Until the Commission satisfies itself on confidentiality of your information, your information will be treated as confidential by the Commission, subject to any public notice requirements set out in the Competition and Fair Trading Act, 2024.

FOR OFFICE USE ONLY	
COMMISSION FILE NUMBER	
DATE FILED	

1. Name of the Case
2. File Number of the Case
3. Confidential Information

   On a separate sheet of paper, list the following information and set out facts and contentions supporting your claim that the identified information is confidential:

   Column 1 – Name/Allocated Number of the document that contains the confidential information

   Column 2 – The page and line number at which the confidential information begins and ends

   Column 4 – The reason why disclosure of the information would be harmful to your legitimate business interests

   Column 5 – Any existing restrictions on access to the information

   Provide who should not access the information and why they should not access it (footnote)

4. Statement of Confidentiality

I, ..., compiled, or supervised the persons who compiled, the attached list. I believe that the information identified in that list is confidential information as defined under section 2 of the Competition and Fair Trading Act, 2024 and regulation 47 of the Competition and Fair Trading Regulations, 2026.

5 Name, address and title of signatory ....

....

....

Signature .... Date ....

Made this 5th day of March, 2026.

S. Itaye

Minister of Industrialization, Business, Trade and Tourism

(FILE NO.: PPB 2187)