REVIEW OF COMPETITION LAW CASES FROM OTHER JURISDICTIONS

Country	*Sector/ Market*	*Parties*	*Case Summary*	*Lesson Learnt*
		RTPS		
Mexico – Federal Economic Competition Commission (COFECE)	Pharmaceuticals	Casa Marzam (Marzam), Casa Saba, Fármacos Nacionales (Fanasa), Nadro and Almacén de Drogas, as well as 21 other individuals	On August 16, 2021 COFECE sanctioned five companies and 21 individuals who participated in absolute monopolistic practices in the market for the distribution of medicine. Also, the Association of Distributors of Pharmaceutical Products of the Mexican Republic (Diprofar) and an individual were fined for collaborating in the execution of said practices. As a result, fines totaling 903.48 Million pesos (Kshs. 5.145 Billion) were imposed and 10 executives from the sanctioned companies were disqualified. **The Conduct:** It was proved that the sanctioned entities conducted agreements to restrict the supply, as well as conducts to fix, manipulate and increase the price of medicines. The specific conducts included: • **Days off:** An agreement between Almacén de Drogas, Casa Saba, Fanasa, Marzam and Nadro, with the collaboration of the Diprofar, for not distributing medicine in the national territory during mandatory holidays provided in the Federal Labor Law, as well as	The anticompetitive conducts were carried out in one of the most relevant markets affecting the population's constitutional right to health as well as their household income. The case involved an association that facilitated the practice by coordinating their members' activities in the execution of the anticompetitive practices.

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			on Good Friday and the Day of the Dead. Through this conduct the distributors colluded to prevent some of them, and their competitors, from supplying pharmacies on non-working days. This practice was carried out during a period of almost 10 years, from June 2006 to late December 2016. • **Credit Committee:** Almacén de Drogas, Casa Saba, Fanasa, Marzam and Nadro colluded to not to distribute or commercialize only a restricted or limited amount of medicine to certain pharmacies, according to their accounts payable to the distributors. This conduct was conducted, at least, between January 2008 and December 2016. • **Limited discounts:** Almacén de Drogas, Casa Saba, Fanasa, Marzam and Nadro colluded to standardize a list of products on which they established a maximum discount (limited discounts) that had to be observed by all agents. For its part, the Diprofar received the lists provided by each distributor to subsequently integrate and send them for comparison and observations. This prevented distributors from competing for customers (pharmacies) discounts offered on the	

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			pharmacy price. • **3.66 conduct:** Almacén de Drogas, Casa Saba, Fanasa, Marzam and Nadro agreed to increase in a coordinated manner the pharmacy price for different medicines by 3.66%. This conduct was carried out from February to August 2013. • **Quadrants conduct:** In this conduct directors of Marzam, Nadro, Fanasa and Casa Saba executed a mechanism that allowed distributors to collude to standardize prices of sale to pharmacies in a staggered manner, to coordinately improve their profit margins without losing market participation. The purpose of this conduct was to prevent retail customers from immediately noticing the coordinated price increase for medicines sold by the distributors. **Theory of Harm** The conducts (i) and (ii) restricted the supply to pharmacies and disturbed the conditions of availability, access and purchase of medicines to the detriment of consumers. Conducts (iii), (iv) and (v) were part of a single monopolistic practice whose object was to gradually perfect the	

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			objective of fixing, raising, agreeing or manipulating the prices of diverse medicines distributed in the Mexican national territory. All these conducts influenced the distribution and sale of medicine, illegally imposing supply restrictions on the retail channel, as well as increases and manipulations to those products' prices. The foregoing generated a harm to Mexican families, particularly to those with lower incomes, who spend approximately 24 Billion pesos (Ksh. 136.8 Billion) on the purchase of prescription medicines, over-the-counter medicines and healing supplies. It is estimated that the sanctioned conducts caused a harm to the Mexicans' purse of 2.359 Billion Mexican pesos. **COFECE Decision** • The companies involved in the undue practices were fined 903, 479 million Mexican pesos. • 10 directors were disqualified from serving as advisors, administrators, directors, managers, executives, agents, representatives or proxies of said companies.	
South Africa – Competition	Civil Engineering and Construction	Esor Limited, Esor Africa (Pty) Ltd and	The Competition Commission welcomed the decision by the Competition Tribunal (Tribunal),	Some of the high costs in civil works in Kenya can be

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Commission South Africa (CCSA)		Esor Construction (Pty) Ltd	handed down on Thursday 5 May 2022, in which it found the Esor group of companies guilty of price-fixing, market allocation, and collusive bidding in construction-related markets for geotechnical services, including piling, lateral support, grouting and geotechnical drilling investigation services. **Particulars of the Case** • Esor, established in 1985, is one of South Africa's benchmark civil engineering and construction groups providing specialist construction solutions including developments, building and housing, infrastructure, pipelines, pipe services, and sanitation. • The Tribunal found that from the 1970s to at least 2015 the companies were part of a construction cartel that concluded agreements amongst themselves, fixed tender prices and allocated tenders/customers and projects amongst themselves. • The Tribunal found that the construction cartel formalised what was known as the Piling Group or the Book Club which was an arrangement to fix prices and collusively	investigated building a case with historical data as the team from SA did.

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			tender for geotechnical projects which included piling, lateral support, drilling, and grouting. Some of the projects included the Lusip Dam in Swaziland, the Sappi/Saiccor piling project, the Moses Mabhida Stadium piling project, and the Braamhoek Dam Grouting project, the Coega Harbour diaphragm wall project, Gautrain Rapid Rail Link project, Olifantsfontein Treatment plant and the Lesotho Highlands Water Project. • The case against Diabor Pty (Ltd), one of the remaining respondents in the matter, was dismissed. Four other companies - Geomechanics CC, Geomech Africa (Pty) Ltd, Rodio Geotechnics (Pty) Ltd, and Dura Soltanche Bachy – were initially cited as respondents but reached settlement agreements with the Commission. • The Tribunal fined Esor Limited, Esor Africa (Pty) Ltd, and Esor Construction (Pty) Ltd a penalty of R15 700 000 million.	
South Africa	Civil engineering and construction	Stefanutti Stocks, WBHO, and Aveng	CCSA multi-million-rand settlement agreement reached between in the civil case against three major construction companies and the City of Cape Town for alleged collusion in the	Bid Rigging in Construction and Civil engineering are prevalent

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			construction of the 2010 World Cup Green Point Stadium. The JSE-listed construction companies Stefanutti Stocks, WBHO, and Aveng on Wednesday announced that they had agreed to settle the civil damages claim that was lodged following claims of collusion and bid-rigging on the construction of the Green Point Stadium, now called the Cape Town Stadium, ahead of the 2010 FIFA World Cup. In June 2013, the Commission announced that 15 construction companies agreed to pay fines that collectively totaled R1.46bn for collusive tendering. The settlements were reached in terms of the construction fast-track settlement process which started in February 2011. The Commission had found that the companies colluded to create the illusion of competition by submitting bogus tenders or cover pricing, to allow an alleged conspirator to win a tender. The Competition Tribunal confirmed the settlement agreements in July 2013. The settlement includes an annual payment of R10,5 million each by Stefanutti Stocks, WBHO, and	

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			Aveng over the next three years and a commitment to Corporate Social Investment projects in the Cape Town district by WBHO and Stefanutti.	
Germany Federal Cartel Office (FCO)	Online sales	Amazon - Amazon is an international sales and service company. It operates online marketplaces for general goods worldwide	In November 2018, the Federal Cartel Office (FCO) opened a formal investigation into Amazon's potential abuse of dominance through its general business terms and practices towards sellers, after it had received more than 100 complaints on various grounds. The FCO investigated whether a number of the general terms and conditions ("T&Cs") primarily contained in the "Amazon Services Business Solutions Agreement" with merchants constitutes an abuse of market power under German antitrust law and potentially also under EU law. Only seven months after opening the investigation, the FCO closed the proceedings upon the informal settlement of July 2019. On August 2019, Amazon provided amended T&Cs. Although the jurisdiction of the FCO is limited to Germany, Amazon decided to amend the T&Cs for all of its 15 marketplaces worldwide.	Sections of our Act that speaks about the conduct Part III section 24(1) Lessons for the Authority The Authority should carry out surveillance checks on the e-commerce platforms in the country for any anti-competitive practices since the country's e-commerce is growing and such practices can happen
Japan - JFTC	Parallel Imports	Wilson Sporting Goods Co.	Wilson Sporting Goods Co. ("Wilson"), and its subsidiary and sole authorized distributor in	Application of Competition Act to a foreign supplier

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		(“Wilson“), , Amer Sports Japan, Inc. (“Amer“),	Japan, Amer Sports Japan, Inc. (“Amer“), had been under investigation since 2020 on suspicion of interfering with parallel importers' transactions, which is prohibited as unfair trade practices under Japanese antitrust law (i.e. the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade, or the “AMA“). The JFTC closed the investigation after issuing the notice of Commitment Procedures and approving the commitment plans submitted by Wilson and Amer. In cases resolved under the Commitment Procedures, the JFTC does not rule on whether the alleged conduct is an infringement of the AMA and accordingly, no sanctions were imposed on Wilson and Amer. According to the JFTC's guidelines on distribution and trade practices under the AMA, parallel imports promote price competition in a market and accordingly, if conducted to maintain prices, its obstruction would be considered problematic under the AMA. The last enforcement action involving parallel imports was taken in 1998, and this is the first case resolved under the Commitment Procedures where not only a domestic sales subsidiary but also its US parent company were required to	whose products are sold in Kenya through a distributor. Use of Commitment Procedure

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			submit commitment plans. Amer had obtained Wilson tennis rackets for advanced players from Japanese parallel importers, who imported the tennis rackets from Wilson's overseas authorized retailers and sold them in Japan at prices below Amer's retail pricing. Upon Amer's request, using the serial number information from hologram stickers on the products, Wilson warned overseas authorized distributors not to sell the tennis rackets to Japanese parallel importers. The JFTC found that this conduct might be considered prohibited interference with a competitor's transactions under the AMA, as it prevented the Japanese parallel importers from importing from overseas authorized distributors. Commitments plans approved by the JFTC. The plans submitted by Wilson and Amer respectively and approved by the JFTC included commitments to: i. Pass a resolution of the board of directors regarding confirmation of cessation of the suspected conduct and other related matters;	

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			ii. Notify parallel importers of measures taken in accordance with the above (i); iii. Ensure all employees and relevant group companies are informed about measures taken in accordance with the above (i); iv. Not perform similar conducts for the next three years; v. Develop a compliance program and conduct regular training for executives, officers and employees and regular internal audits; and vi. Report to the JFTC upon implementation of the measures required under the commitment plans. Wilson also agreed not to enforce any policy, with respect to the sale of the products in Japan, prohibiting overseas authorized distributors from selling the tennis rackets to Japanese parallel importers at their request (i.e., not to impose restriction of passive sales to Japanese parallel importers on overseas distributors) Commitment Procedures introduced by JFTC IN 2018 enabled it to address competition concerns with the cooperation of a suspected overseas company. Foreign manufacturers or brand owners should carefully assess any restrictions on distributors	

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			that may affect the sale of their products and services in Japan from the Japanese antitrust perspective.	
South Africa	Ticketing	Computicket (Pty) Ltd (Computicket) and Shoprite Checkers (Pty) Ltd (Shoprite)	• The Competition Commission (Commission), Computicket (Pty) Ltd (Computicket) and Shoprite Checkers (Pty) Ltd (Shoprite) have on Wednesday 25 May 2022 reached a settlement agreement in terms of which Computicket agreed to pay a fine of R11,317,000.00 (eleven million, three hundred and seventeen thousand Rand) to settle a second prosecution against it by the Commission for alleged abuse of dominance in contravention of section 8(d)(i) or 8(c) of Competition Act. • Section 8(d)(i) or 8(c) of the Competition Act prohibits a dominant firm from abusing its dominance by excluding its competitors from entry, participation, and expansion in a market. • Computicket is a wholly owned subsidiary of Shoprite, a national retailer. Computicket distributes tickets for, among others, entertainment events, bus, flights, hotel accommodation, and holiday packages. • The alleged abuse of dominance entailed Computicket entering into exclusive	RTP conducts can recur and there is need for regular monitoring to ensure compliance with the Act.

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			agreements with inventory providers (such as theatres, promoters, and other event organisers) between the period January 2013 to June 2018 in terms of which Computicket was appointed as the sole provider of outsourced ticketing services to inventory providers. • The Commission found that the effect of the exclusive agreements concluded between Computicket and inventory providers was to exclude competitors of Computicket from entering into or expanding in the market for outsourced ticket services, and depriving end-consumers of choice. The Commission found that Computicket had entered into and enforced exclusive agreements with a significant majority of inventory providers, and accordingly decided to refer the matter to the Competition Tribunal for prosecution. • The settlement between the parties' records that the exclusivity provisions in Computicket's agreements have, from 23 October 2019, been removed, and takes cognizance of the changes in the events sector and market generally. This includes the	

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			successful entry of several outsourced ticket distribution firms since the Commission's previous successful prosecution of Computicket for similar conduct. • In the previous prosecution by the Commission, on 21 January 2019, the Tribunal imposed a fine of R20 million against Computicket for the same contravention - the only difference being that the period of the contravention was between 2005 – 2010. • The Tribunal's finding against Computicket in the previous prosecution was endorsed on appeal by the Competition Appeal Court. The recent settlement agreement concluded between the Commission and Computicket is subject to confirmation by the Competition Tribunal.	
Brazil - Administrative Council for Economic Defense (CADE)	Manufacturing - Resin for coatings and composites	Royal Química and Cempre Apoio Educacional	On 23 March 2022, the Administrative Council for Economic Defense (CADE) convicted the firms Royal Química and Cempre Apoio Educacional, in addition to five individuals related to the companies, for cartel practice in the Brazilian market of resin. The fines imposed amount to BRL 46.8 million. The practice affected the markets of resin for coatings and composites. The coating industry employs resin to manufacture	Application of leniency agreements is working in several jurisdictions and it opens up an opportunity to investigate cartels in Kenya. The Authority may find a way to explore the leniency programme in cartel investigations.

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			products such as wall paints, whilst the composite industry uses the material in the production of water tanks, swimming pools, and laminates for the marine and automotive industries. CADE launched the administrative proceedings in May 2016 as a result of a leniency agreement signed in 2014 with companies of the Reichhold group. Further, in 2016, CADE conducted search and seizures at the office of the other investigated companies. **The conduct** The involved parties restricted market competition by fixing the price of resin and sharing competitively sensitive information. Such anticompetitive conduct occurred at least between 2000 and 2014. The conduct lasted more than a decade, resulting in severe harm to competition, customers, and the economy. **Settlement Agreements** Since the beginning of the probe, the investigated companies and some of their employees have signed eight cease and desist agreements with the antitrust authority. The signatories of the leniency agreements admitted their participation in the anticompetitive conduct and committed to cease	

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			the practice and collaborate with CADE's enquiry. The Tribunal dismissed the case in relation to nine companies and its employees that signed the agreement with the authority. The cease and desist agreements executed with CADE accounted for more than BRL 78.9 million in financial contributions to the Fund for the De Facto Joint Rights. The Tribunal granted immunity from prosecution to the companies of the Reichhold group that signed a leniency agreement.	
Germany Bundeskartellamt (Germany Competition Authority)	Sale of bicycles to final consumers	ZEG Zweirad-Einkaufs-Genossenschaft eG (ZEG), Cologne, and its representatives	The Germany competition authority (Bundeskartellamt) imposed a fine totaling around 13.4 million euros on ZEG (Bicycle wholesaler). ZEG is a purchasing cooperative consisting of approx. 960 independent bicycle retailers in Europe, of which around 670 are in Germany alone. It has a strong market position in Germany both on the purchase and sale side. ZEG sells to its retailers' bicycles of its own brands, e.g., Pegasus, Bulls and ZEMO, as well as certain models of other manufacturers which are sold exclusively by ZEG. **The Conduct**	Vertical price fixing harms the consumers and it can as well happen in the Kenyan economy so there is need for the authority to be more vigilant.

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			ZEG was accused of agreeing with its member companies on retail prices for certain bicycle models. The independent retailers were asked not to undercut the minimum sales prices set by ZEG for different bicycle models. This greatly restricted price competition between the members of the purchasing cooperation to the detriment of the consumers. According to the agreements the retailers were not allowed to undercut the minimum sales prices set by ZEG for seasonal bikes (ZEG's own brands and exclusive models of other manufacturers sold exclusively by ZEG). The agreements, some of which dated back to February 2007, ended with a dawn raid on ZG's premises in February 2015. ZEG's representatives also checked adherence to the resale prices. They received complaints from retailers about other retailers undercutting the prices and conducted their own price research or had this carried out by others. Retailers which had undercut a certain low price were asked to strictly observe the set price. For discretionary reasons no proceedings were initiated against the retailers due to their secondary role in the matter in comparison to	

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			ZEG. They were therefore not accused of having committed a cartel offence.	
		MERGERS		
Canada (Competition Bureau Canada)	Telecommunication and pertains to part IV of the Act on mergers.	This is a merger case that involves Rogers (acquirer) and Shaw (the acquired).	• The Competition Bureau has filed an application with the Competition Tribunal seeking a court order to block Rogers' proposed acquisition of Shaw and is also requesting an injunction to stop the parties from closing the proposed transaction until the matter can be heard by the Tribunal. The Bureau must prove its case at the Tribunal in order for the proposed transaction to be blocked. **Why the Bureau is taking action in this matter?** The Bureau conducted an extensive investigation of the proposed Rogers-Shaw merger which examined the following services offered by both companies: • Wireless services, which refer to mobile communication services, such as voice, text and data; • Wireline services, which refer to any wired telecommunications service, such as	• Killer acquisitions especially in the telecommunications sector may lead to elimination of competition and higher pricing of services and products if allowed. In Kenya, when a dominant or company with a bigger market share is acquiring a smaller competitor, aspects of competition harm should be well checked to avoid killer acquisition scenarios.

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			telephone, TV and internet; and • Broadcasting services, which include business-to-business and consumer television broadcasting services. The Bureau's investigation concluded that the proposed merger would substantially prevent or lessen competition in wireless services. **The proposed transaction** On March 13, 2021, Rogers agreed to purchase Shaw in a transaction valued at approximately $26 billion (Kshs. 3.1 trillion) including debt. **The parties to the case** **Rogers** is a publicly traded Canadian communications and media company headquartered in Toronto. It is the largest wireless services provider in Canada, serving nearly 11.3 million subscribers across the country through its Rogers, Fido, Chatr and Cityfone brands. It provides cable wireline services (e.g., Internet, TV and telephone) to consumers and businesses in Ontario, New Brunswick and Newfoundland. It also offers media products to Canadians, such as sports media and	

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			entertainment, TV broadcasting and radio. **Shaw** is a publicly traded Canadian communications company headquartered in Calgary, Alberta. It is the fourth largest wireless services provider in Canada, serving nearly 2.1 million subscribers in Ontario, Alberta and British Columbia through its Freedom Mobile and Shaw Mobile brands. It provides cable wireline services to consumers and businesses in western Canada and northern Ontario. It also offers direct-to-home satellite television and video-on-demand services across Canada through Shaw Direct. In Ontario, Alberta and BC's wireless markets, Rogers and Shaw are each other's closest competitors. **The Commissioner's application to the Competition Tribunal covered the following areas:** • Shaw's presence in the wireless services market benefits Canadians - Shaw entered the wireless market in 2016 after acquiring Wind Mobile (now Freedom Mobile). The Bureau's investigation found that it has quickly become a competitive force in a market dominated by the	

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			Big 3 national carriers: Rogers, Bell and Telus. • Canadians pay some of the highest prices for wireless services in the developed world. The Bureau investigation found that Shaw has consistently put competitive pressure on the Big 3 through significant long-term investments to improve the quality of its network from 3G to a competitive LTE-Advanced and 5G-capable network. • In addition to network investments, the Bureau's investigation found that Shaw has attracted customers through its aggressive pricing, bigger data allowances and service innovations. • Its market share has significantly increased and its subscriber base has doubled since first launching its Big Gig promotion in 2017. Big Gig plans offered customers larger blocks of wireless data at reasonable prices and eliminated overage fees – a first in Canada. • It was also the first provider to offer devices for free on term contracts, and the first and only provider to offer $0 phone plans with internet bundles.	

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			• The Bureau's position is that Shaw's growth has been a direct benefit to Canadians. It has driven down prices and made wireless data more accessible to consumers. • Its disruptive tactics have forced the Big 3 to compete to retain customers. As a result, data prices have decreased where they previously were increasing year-over-year. • The Bureau's investigation has concluded that competition between Rogers and Shaw has already been lessened – and the harm to competition will only worsen if the proposed transaction is allowed to proceed. For this reason, the Bureau has filed an application for an order to block the proposed transaction. The Bureau must now prove its case before the Tribunal in order for the deal to be stopped. In particular, the Bureau's application alleges that the proposed transaction would substantially prevent or lessen competition in wireless services by: • Eliminating an established, independent and low-priced competitor; • Preventing future competition for wireless services, including 5g, within and outside	

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			Shaw's existing service area; • Preventing competition for wireless services to business customers in Ontario, Alberta and British Columbia; and • Increasing the likelihood and ease of coordination between the big 3 which will likely result in increased prices. • The Bureau's investigation found that prior to the merger announcement, Shaw planned to enter new wireless markets, launch its 5G network, and expand its wireless services to business customers. Since then, its network investment has declined. In addition, the Bureau alleges that Shaw's reduced marketing and promotional activity has resulted in an overall loss of competition in the market. Big 3 have roughly equal market shares Canada-wide and provide wireless services to approximately 87% of Canadian subscribers. The Bureau's application to the Tribunal alleges that eliminating Shaw would significantly increase Rogers' national market share – already the largest among the Big 3 - and would also significantly increase its market power.	

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			• The Bureau alleges that removing a strong regional competitor like Shaw will likely result in consumers paying significantly higher prices. Bell and Telus will not effectively limit Rogers' increased market power because they do not have the same competitive incentives as Shaw. • In a 2019 study, the Bureau found that the Big 3 are able to charge higher prices where they possess market power, except in regions with wireless disruptors, where prices can be 35 to 40% lower. The Bureau alleges that the stable, high-priced environment seen prior to Shaw's Big Gig promotion is likely to return if the merger proceeds.	
India (Competition Commission of India)	Mining	Competition Commission of India (CCI) Metso's Minerals and Outotec Oyj	The Competition Commission of India (CCI) approved acquisition of Metso's Minerals business by Outotec Oyj, with modifications. On 18th June 2020, CCI approved the proposed acquisition of the mineral business of Metso Minerals ('Metso') by Outotec (both Metso and Outotec referred to as 'Parties'), subject to carrying out certain modifications proposed by the Parties.	• Partial demerger cases in Kenyan case. • Effects of mergers on limiting the number of suppliers available to customers in this markets. • Analyzing mergers that would perpetuate the

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			The Proposed Combination involves a partial demerger of Metso pursuant to the Finnish Companies Act to the effect that all such assets, rights, debts and liabilities of Metso that relate to or primarily serve its minerals business (comprising mining, aggregates, and recycling businesses) will be acquired by Outotec. In return for the transfer of Metso Minerals to Outotec, the shareholders of Metso ***will receive newly issued shares in Outotec and hold the majority of the new entity's shares (~78%)***. Outotec's shareholders will hold 22%. The combined entity will operate under the name Metso Outotec. However, Metso's flow control business, serving the process industries, will continue to exist independently under the name Neles. Outotec is a public limited liability company incorporated and registered under the laws of Finland. It is present in India in the supply of equipment for the process(es) of (i) Flotation, (ii) Sedimentation, (iii) Filtration, (iv) Thermal Processing, i.e., Iron Ore Pelletizing (IOP), (v) Hydrometallurgy, and (vi) Refining. Metso is also a public limited liability company	substantial market position and reduce the extent of countervailing bargaining power that customers enjoy on account of the competition exerted by merged parties.

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			incorporated and registered under the laws of Finland. It is present in India in the supply of equipment for the process(es) of: (i) Crushers, (ii) Grinding Mills, (iii) Flotation, (iv) Filtration, (iv) Iron Ore Pelletizing, (v) Slurry handling, (vi) Materials handling, (vii) Size control, (viii) Aggregates Capital Equipment, and (ix) Recycling. After considering the facts and material on record, details provided in the notice, submissions of the Parties from time to time, competitor responses and customer responses, the Commission formed a prima facie opinion that the proposed combination is likely to cause AAEC on competition in the segment of Iron Ore Pelletizing in India. The Commission found that the proposed merger integration involved of two strong and close competitors in the market for Iron Ore Pelletizing Equipment Island in India and appeared to:	

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			(i) limit the number of suppliers available to customers in this market in India; (ii) reduce the intensity of innovation in the technology for pelletizing technology and equipment; (iii) perpetuate the substantial market position of the Parties in the market and reduce or eliminate the competitive pressure that would prevail in the absence of Proposed Combination; (iv) reduce the extent of countervailing bargaining power that customers enjoy on account of the competition exerted by independent presence of Metso and Outotec; (v) increase the cost of entrants and rivals to compete and increase their presence in the market, given that there is no likeliness of a timely and sufficient entry that could act as a competitive constraint to the combined entity; (vi) result in the creation of a strong integrated player. Thus, the Commission was of the view that the	

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			proposed combination would reduce competition and confer the combined entity, the ability to increase price, etc. In order to address the competition concerns arising as a result of the Proposed Combination, the Parties proposed Voluntary Remedies/modifications (VRP). The Commission noted that the VRP given by Parties eliminates the overlap between the Parties in the IOP segment in India and would effectively transfer Metso's Indian Straight Grate (SG) IOP capital equipment business to a suitable buyer, thereby preserving the competition. The modification essentially involves transferring a right to fully use and exploit the Straight Grate IOP capital equipment drawings, including the related registered IP, by way of an exclusive and irrevocable license, subject to a lump sum upfront payment and no ongoing royalties. VRP will allow the emergence of a new competitor, thus resolving any concerns whatsoever in relation to this segment. Accordingly, the Proposed Combination was approved.	
Singapore	Aviation	CCCS, Singapore Airlines Limited and Malaysia	The Competition and Consumer Commission of Singapore ("CCCS") in May 2022, granted conditional approval of the Proposed Commercial	Application of post-COVID-19 recovery to the aviation sector particularly in overlapping airline routes.

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		Airlines Berhad	Cooperation (the "Cooperation") between Singapore Airlines Limited ("SIA") and Malaysia Airlines Berhad ("MAB") (collectively, the "Parties"), after accepting a set of proposed commitments from the Parties. The Cooperation will be given effect through a Commercial Cooperation Framework Agreement that the Parties entered into on 30 October 2019. On the same day, CCCS accepted a joint application for decision from the Parties on whether the Cooperation would infringe section 34 of the Competition Act (the "Act"). The Cooperation envisages a metal-neutral alliance in respect of services between Singapore and Malaysia through a Joint Business Arrangement ("JBA"), and cooperation in other areas, including special prorate arrangements and expanded code sharing to grow traffic between Malaysia and Singapore and between Malaysia or Singapore and certain agreed markets such as Europe. The metal-neutral alliance contemplated under the JBA involves coordination between the Parties	

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			on network planning and scheduling, distribution, pricing and inventory management and distribution, joint sales and marketing, and revenue-sharing. In its assessment, CCCS conducted a public consultation. Based on third party feedback and the approach taken by CCCS in past airline cases, CCCS is of the view that the relevant markets for the purposes of the assessment comprised of direct air passenger services between Singapore and Malaysia, in particular each origin-destination city pair below: Singapore to Kuala Lumpur including Seletar Airport to Sultan Abdul Aziz Shah Airport vice versa ("vv"); and Singapore to Kuching vv. (collectively, the "Overlapping Direct Routes") The COVID-19 pandemic and the introduction of border restrictions disrupted the aviation sector which significantly impacted competition on the Overlapping Direct Routes and resulted in uncertainty as to the timing and extent of recovery of demand post-COVID-19. This limited CCCS's assessment based on available information as to the competition impact of the Cooperation post-COVID-19, and the Parties'	

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			ability to substantiate its claims of net economic benefits from the same. Against this backdrop, the Parties submitted a set of proposed commitments (the "Commitments") that will allow the JBA to be implemented during the recovery phase. Under the Commitments, the Parties will have to subject the JBA to CCCS's further review when a series of indicators (the "Trigger Events") signal a sustained recovery and subsequent sustained normalcy of aviation activity on the Overlapping Direct Routes. There are also sufficient safeguards in place for the Parties to furnish the necessary information for CCCS's assessment as to whether the Trigger Events are met. CCCS assessed that the Commitments would provide sufficient safeguards to ensure that the JBA is implemented only during the recovery phase from the COVID-19 pandemic, when competition on the Overlapping Direct Routes is limited even without the JBA and any impact on competition which may be expected to result is mitigated. CCCS noted that the responses received during a market testing of Parties' Commitments from 10 March 2022 to 24 March	

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			2022 did not raise concerns regarding the Commitments. CCCS also noted the concerns raised by some third parties about the Cooperation and is of the view that the Commitments will allow CCCS to assess these concerns, alongside the competition impact and benefits of the JBA, on a more informed basis when there is a sustained recovery in the aviation sector. n view of the above, CCCS finds that the JBA does not infringe section 34 of the Act and has conditionally approved the Cooperation, subject to the Parties' implementation and compliance with the Commitments.	
South Africa	Grocery, liquor stores, wholesale stores and Massfresh business	SHOPRITE SUPERMARKETS (PTY) LTD ("SHOPRITE SUPERMARKETS") AND MASSMART HOLDINGS LIMITED ("MASSMART")	The Competition Commission has recommended that the Competition Tribunal approve Shoprite Supermarket's proposed acquisition of the multiple retail stores operated under Massmart's Rhino and Cambridge brands subject to competition and public interest conditions. The merger involves grocery, liquor stores, wholesale stores and Massfresh business. The Commission found that the merger does not raise	

Country	*Sector/ Market*	*Parties*	*Case Summary*	*Lesson Learnt*
			any competition or public interest concerns in the wholesale of grocery products but found that the merger is likely to raise substantial competition concerns in the retail supply of grocery products nationally and in specific local market areas. The Commission concluded that the merger's approval is justifiable from a public interest perspective. Shoprite Supermarkets is controlled by Shoprite Checkers Proprietary Limited, which is in turn, owned by Shoprite Holdings Limited, a firm listed on the Johannesburg Securities Exchange. Of relevance to the proposed transaction are Shoprite Checkers retail grocery activities which are conducted through its Checkers, Checkers Hyper, Shoprite, OK and Usave brands. Shoprite Holdings and all the firms it controls, shall be referred to as the "Shoprite Group". The Target Business is comprised of 56 retail grocery stores and 43 retail liquor stores operated under Massmart's Rhino and Cambridge brands; 10 wholesale (cash and carry) stores; two wholesale liquor stores; and Massfresh (comprised of a meat processing and packing facility and Fruitspot, a fresh fruit and vegetable	

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			processing facility). As reported publicly, Massmart and the Target Business have been underperforming for several years. The Target Business is considered non-core by Massmart, hence Massmart's decision to dispose of the Target Business in its entirety. The Commission's investigation found that: The closest competitors of national retail grocery chains such as the Shoprite Group are other national retail grocery chains namely the Target Business, Pick N Pay, SPAR and Woolworths. There was insufficient evidence indicating that smaller/regional retailers and hybrid/cash and carry stores compete directly with national retail grocery chains; The Target Business is itself a national retail grocery chain and given the limited number of national retail grocery chains, the merger further increases the concentration in the retail supply of groceries by national grocery chains. The supply of grocery products by national chains can be further narrowed into income groups. The	

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			Target Business's Cambridge and Rhino brands specifically target low-income customers based on their product range, locations, price points, and promotions. The Commission found that Shoprite Checkers is also active in the low-income customer segment through its Shoprite and Usave brands. Apart from the merging parties, there are only 2 other national players in this segment. Thus, the merger raised competition concerns in this market. However, the Commission found that although there were other bidders for the Target Business, absent from the merger, the Target Business is likely to close due to its financial performance. This will result in the Target Business exiting the retail grocery market and, amongst others, the loss of all approximately 7 000 jobs at the Target Business. Further, the Commission found that the remedies tendered by the parties to promote competition in highly concentrated local grocery retail markets go some way towards addressing the competition concerns identified. Additionally, the merging parties have agreed to a substantial package of public interest remedies that, when weighed	

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Country	*Sector/ Market*	*Parties*	*Case Summary*	*Lesson Learnt*
			against the possible exit of the Target Business, militate against the concerns identified. These public interest commitments include, inter alia, commitments that – • No jobs will be lost at the merging firms because of the merger. Shoprite Group will implement programmes to increase employment opportunities post-merger; • An employee share ownership scheme will be implemented for the benefit of employees of the merging parties; • Shoprite Checkers will increase local procurement substantially and will invest in skills development which will benefit amongst others, over 1000 HDP students/youths; • Shoprite Checkers will continue to procure from the Target Business's SMME and HDP suppliers; and • The merged entity will develop and support SMME and HDP retailers, suppliers, and other small businesses in their value chain. The Competition Act enjoins the Commission to, notwithstanding the merger's impact on	

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Country	*Sector/ Market*	*Parties*	*Case Summary*	*Lesson Learnt*
			competition, determine whether a merger can or cannot be justified on public interest grounds. In the circumstances of the merger, the Commission concluded that its recommendation that the merger is approved is justifiable from a public interest perspective. The counterfactual results in worse outcomes from the perspective of both competition and public interest.	
CONSUMER PROTECTION				
United Kingdom (Competition and Markets Authority)	Telecommunications	Apple Inc. is an American multinational technology company that specializes in consumer electronics, software and online services headquartered in California, United States	• CMA opened investigation into Apple Inc., due to concerns that some of its practices may breach consumer law. The investigation focused on concerns that people were not warned that their phone's performance could slow down following a software update to manage the power demands on batteries. • Apple Inc. has committed to be clearer and more upfront with the iPhone users. Apple will also provide easily accessible information about battery health and unexpected shutdowns, along with guidance on how iPhone users can maximize the health of their phone's battery.	• Section 60 of the Act requires that Consumers are given product information