CAK DECISION ON THE PROPOSED ACQUISITION OF THE ENTIRE ISSUED SHARE CAPITAL OF PHIMA FLOWERS B.V. BY MARCOZ HOLDING B.V.

1. The Competition Authority of Kenya has approved the proposed acquisition of the entire issued share capital of Phima Flowers B.V by Marcoz Holding B.V unconditionally.

2. This approval has been granted on the finding that the transaction is unlikely to negatively impact competition in the market for growing, processing, and exporting flowers nor elicit negative public interest concerns. These are the two key considerations during merger analysis.

3. **Marcoz Holding B.V.** (Marcoz), the acquirer, is an investment holding company incorporated and registered in the Netherlands. Marcoz directly controls two companies operating in Kenya. One firm specializes in logistics solutions for fresh-cut flowers, herbs, cuttings, produce, and fruits moving through key international trade lanes. The other firm consolidates flowers from growers in Kenya and ships them worldwide.

4. **Phima Flowers B.V.** (Phima Flowers), the target, is a holding company and has no operational presence in Kenya. Pharma Flowers controls several undertakings incorporated in Kenya that are growers and exporters of cut flowers.

5. The proposed transaction involves the acquisition of the entire issued share capital of Phima Flowers B.V by Marcoz Holding B.V. The transaction, therefore, qualified as a merger pursuant to section 2 and 41 of the **Competition Act, No. 12 of 2010.** The Act stipulates that a merger, or takeover, may occur when an undertaking directly or indirectly acquires control over another business within Kenya. This may happen through, among others, purchase/lease of shares, exchange of shares, vertical integration.

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6. Further, merging parties whose combined turnover or assets, whichever is higher, is over Ksh. 1 Billion are required to seek approval from the Authority prior to implementing a proposed transaction. The transaction between Marcoz Holding B.V and pharma Flowers B.V met this threshold for mandatory notification and full analysis as provided in the **Competition (General) Rules, 2019.**

7. During merger analysis, and in order to determine the impact that a transaction will have on competition, the Authority identifies the **relevant product market** as well as the **relevant geographic market.**

8. The **relevant product market** comprises products/services that are interchangeable or substitutable by the consumer due to their characteristics, prices and/or intended use. Based on this criteria, the relevant product market for the proposed transaction is the **market for growing, processing, and exporting roses**.

9. Determination of the **relevant geographic market** involves interrogating the area in which merging parties undertake the business and in which competition conditions are sufficiently similar. With regard to this transaction there are **two markets – the locations where roses are grown and sold.** Roses are grown across Kenya and therefore, the relevant geographic market is **national.** The main export destination for Kenyan roses is Europe therefore the relevant geographic market is **international.**

10. Agriculture is the largest sector of Kenya's economy accounting for about 20% of GDP (2021). According to the Economic Survey 2022, the value of horticulture exports in 2021, including cut flowers, was Ksh. 157.7 Billion. The marketed value of cut flowers in the year under review was Ksh. 110.8 Billion.

11. Kenya is the lead exporter of rose cut flowers to the European Union (EU) with a market share of 38%. Approximately 50% of exported flowers are sold through Dutch auctions, although direct sales are increasing. In the United Kingdom, supermarkets are the main retail outlets. Kenya flowers are sold in over 60 countries.

12. The main growers and exporters of flowers in Kenya are; AA Growers, Afriflora, Aquila Flowers, Blacktulip, Flamingo Flowers Herbug Roses, Hola Roses, Isinya Roses, Panda Flowers, and Batian Flowers, among others.

13. One criteria of assessing a merger's impact on competition is the post-merger market share of the undertakings involved in the transaction. With regard to the proposed

merger, the post-merger the parties will control a market share of 0.69% in the market for export of cut flowers. In addition, the merged entity will continue to face competitive pressure from other companies in the same business and who control over 99.31% market share as well as exporters of flowers in other countries.

14. Premised on this, **the proposed transaction is unlikely to lead to a substantial lessening of competition in the market for growing, processing, and export of flowers in Kenya.**

15. During merger analysis, the Authority also considers the impact that a proposed transaction will have on public interest. Public interest in this case refers to various economically-inclined concepts that, when considered, protect the welfare of the Public. In the Competition Act, some of the public interest considerations are;

    a) extent to which a proposed merger would impact employment opportunities;
    b) impact on competitiveness of SMEs;
    c) impact on particular industries/sectors; and
    d) impact on the ability of national industries to compete in international

16. As per the parties' submissions, the proposed transaction will not elicit negative public interest concerns. Specifically, the target's 1,532 employees will retain their employment under the same terms.

17. Premised on the above, the Authority approved the proposed acquisition of the entire issued capital of Marcoz Holding B.V. by Phima Flowers B.V. unconditionally.