

**STATEMENT BY THE DIRECTOR AND CHIEF EXECUTIVE  
OFFICER, DR. WILLARD MWEMBA**

**AT**

**THE 10-YEAR ANNIVERSARY CELEBRATIONS OF THE  
COMESA COMPETITION COMMISSION:**

**4 – 5 MAY 2023, BINGU INTERNATIONAL CONVENTION  
CENTER,**

**LILONGWE - MALAWI**

- 1. Your Excellency, Dr. Lazarus McCarthy Chakwera, The President of the Republic of Malawi and Guest of Honour at this Function**
- 2. His Lordship, Justice Rizine R. Mzikamanda, SC, Chief Justice of Malawi,**
- 3. His Lordship, Honourable Justice Luke Malaba, Chief Justice of Zimbabwe**
- 4. Her Excellency, Ms. Chileshe Mpundu Kapwepwe, Secretary General of Common Market for Eastern and Southern Africa**
- 5. Ms. Adefunke Adeyemi, Secretary General of African Civil Aviation Commission**
- 6. Your Excellency Ambassadors representing various Missions Accredited to Malawi**
- 7. Honourable Simplex Chithyola, M.P., Minister of Trade and Industry of Malawi**
- 8. His Excellency, Mr Yahya Elwathik Bellah Abdelmoneim, First Under Secretary of the Ministry Trade and Industry, Head of Egyptian Commercial Service.**
- 9. Honourable Mr. Teshale Belihu Kafene, State Minister, Ministry of Trade and Regional Integration, Ethiopia**
- 10. Ms. Ellen Ruparanganda, Chairperson of the Board of Commissioners of the COMESA Competition Commission**

## **11. Heads of National Competition Authorities from Across Africa**

## **12. Distinguished delegates, ladies and gentlemen**

Let me start by welcoming Your Excellency, the President of the Republic of Malawi, Dr. Lazarus McCarthy Chakwera to the 10-Year Anniversary Celebrations of the COMESA Competition Commission. Your Excellency, the entire COMESA Competition Commission is truly honoured and humbled by your attendance.

Your Excellency, in attendance at this 10-Year Anniversary celebrations are local and international delegates from various institutions active in competition and consumer protection law enforcement and related matters. I recognise several of my colleagues, mentors and even lecturers in the audience. Let me sincerely welcome you all and I wish to express my profound gratitude for your support.

### **Your Excellency, distinguished delegates, ladies, and gentlemen**

The COMESA Competition Commission is established under Article 6 of the COMESA Competition Regulations of 2004, a regional competition law, which seeks to promote and regulate competition within the Common Market for Eastern and Southern Africa and ultimately enhance the welfare of consumers in the Common Market. Despite the COMESA Competition Regulations being enacted in 2004, the COMESA Competition Commission

first opened its doors to the public on 14 January 2013 with a meagre staff complement of five (5) who were charged with the enormous task to operationalise the first ever regional competition authority in Africa.

Your Excellency, it will be amiss of me not to recognise the attendance of my predecessor and the first Director and Chief Executive Officer of the COMESA Competition Commission, Dr. George Lipimile. George was key in establishing and expanding the COMESA Competition Commission, a role he played until his separation from the Commission in 2021. I should confess that every time I report for work is a reminder that you left big shoes to fill but fortunately, the shoes are pointed in the right direction. You left the institution on a trajectory which will guarantee its continued growth, expansion, and sustainability.

**Your Excellency, distinguished delegates, ladies, and gentlemen**

Over the past ten (10) years, the COMESA Competition Commission has increased its efforts in regulating competition and consumer protection within the Common Market with a major focus on merger control, restrictive business practices and consumer protection. Complementing its efforts has been the COMESA Competition Commission's advocacy and sensitization programmes which have seen the Commission engage a cross section of stakeholders ranging from Member States' Governments including National Competition Authorities, the Business Community, Legal Practitioners,

international cooperating partners and competition authorities from other jurisdictions, just to mention a few.

**Your Excellency, distinguished delegates, ladies, and gentlemen**

Establishing an institution comes with its challenges and opportunities and the journey has been no different for the COMESA Competition Commission. From inception, the Commission encountered several challenges such as limited human and financial resources; lack of stakeholder awareness of the COMESA Competition Commission's jurisdiction on regional competition and consumer protection matters; absence of clear guidelines on implementational aspects of the regional competition law.

It is pleasing to note that 10-years down the road, most of these challenges have been addressed and this has translated into increased and improved enforcement of the COMESA Competition Regulations which has created opportunities for the Commission, our stakeholders, and the entire Common Market. Most of our stakeholders in attendance can attest to this fact.

**Your Excellency, distinguished delegates, ladies, and gentlemen**

At this point, allow me to highlight some of the progress the COMESA Competition Commission has made in its enforcement and consumer protection efforts. Among the functions of the COMESA Competition Commission is to investigate competition cases such as mergers and acquisitions; and restrictive business practices. Your Excellency, competition regulation is an important aspect to guarantee well-functioning markets and

facilitate the integration of the Common Market. The main reason for investigating such competition cases is to ensure that business transactions entered into and implemented within the Common Market do not restrict competition nor negatively affect public interest.

Your Excellency, economic theory has taught us that the absence of competition in our markets results in higher prices for goods and services, limited choices for consumers and heightened risks of inferior products or services available to consumers. Consumers are put at a higher risk of exploitation in such markets. Further, micro, small and medium enterprises which are a common characteristic in most of the COMESA Member States are put at a higher risk of not growing and may exit the market due to anti-competitive business conduct by dominant players or due to the lack of competition in our markets.

Your Excellency, it is for this purpose that the COMESA Competition Commission was established, that is, to ensure that the Common Market is competitive, businesses flourish, and consumer welfare is safeguarded. It should also be borne in mind that mergers and acquisitions are a form of foreign direct investment such that their regulation has direct implications on FDI inflows into the Common Market. Therefore, the COMESA Competition Commission's approach has always been to be cautious of the business implications of competition regulation.

## **Your Excellency, distinguished delegates, ladies, and gentlemen**

From inception in 2013 to date, the COMESA Competition Commission has investigated over **three hundred and sixty (360) merger cases** and the companies involved derived an aggregate turnover of over **USD 210 billion** in the Common Market, representing the amount of business generated from the Common Market. It is evident that the Commission's regulatory role can have cost implications on businesses which reinforces the need to be sensitive to the impact of any delays in the Commission's enforcement efforts. With regards to the investigation of restrictive business practices, the COMESA Competition Commission has investigated **over forty (40) cases** since inception. Among the notable cases include the "*Investigation into Agreements between the Confédération Africaine de Football, Lagardere Sports SAS, Orange SA and TOTAL SA relating to the commercialization of marketing rights for CAF competitions*" and as well the investigation into resale price maintenance by The Coca-Cola Company.

With regards to the consumer protection mandate, it should be appreciated that to date, the COMESA Competition Commission has a fully-fledged consumer protection division which was not the case at inception. Under this mandate, the COMESA Competition Commission seeks to ensure that consumers are not misled nor exploited in the ordinary course of business. Since inception, the Commission has investigated over **forty-four (44) consumer cases**. Notable among these cases include the investigation into unfair terms and conditions on the Jumia online platform. The Commission engaged Jumia on

the incompatibility of their Terms and Conditions to the COMESA Competition Regulations, and they cooperated and reviewed the problematic clauses. Further, the Commission investigated the conducted of Malawi Airlines in 2022 following complaints from passengers aboard a flight from Johannesburg to Blantyre. Due to bad weather, Malawi Airlines re-routed the Blantyre passengers to Lilongwe, Kamuzu International Airport, and accommodated them at the Sunbird Capital Hotel. Unfortunately, thereafter were left to find their way from Lilongwe to Blantyre. The Airline was engaged and it agreed to compensate all the affected passengers for the disruption of their journey. The Commission has also undertaken product recalls and published alerts with regard to defective and unsafe products distributed in the Common Market which were declared unfit for consumption or use by consumers. Through such actions, the Commission has ensured that consumers are not put at risk of consuming defective products.

**Your Excellency, distinguished delegates, ladies, and gentlemen**

Effective enforcement of a law such as the COMESA Competition Regulations is guaranteed when the constituents that the law is meant to regulate are aware of their obligations under the law. For this reason, the COMESA Competition Commission is duty bound to develop and disseminate information about competition and consumer protection law enforcement in the Common Market.



Over the past decade, the COMESA Competition Commission has made positive strides to advocate for compliance with the Regulations and sensitise stakeholders on its operations. Among the efforts include the engagement with business reporters through Annual Business Reporters' Workshops where the reporters are updated on key developments in regional competition law enforcement, among other things. This year's Annual Business Reporters Workshop was held just a few days ago on 2 – 3 May 2023, here in Lilongwe, Malawi.

**Your Excellency, distinguished delegates, ladies, and gentlemen**

The COMESA Competition Commission appreciates that stakeholders such as legal practitioners and the business community are crucial in the efforts to implement the COMESA Competition Regulations. To this end, the COMESA Competition Commission has also made deliberate efforts to constantly engage legal practitioners and the business community in the Common Market. Further, having recognised that the Decisions issued pursuant to the COMESA Competition Regulations are appealable, the COMESA Competition Commission has also been constantly engaging judges from COMESA Member States on the provisions of the Regulations.

**Your Excellency, distinguished delegates, ladies, and gentlemen**

The COMESA Competition Commission recognises that the community within which it operates is important to its day-to-day operations. Therefore, integrating social and environmental concerns within its work programme is

paramount. It is concerning to note that the effects of global warming, manifesting in different ways such as drought, prolonged rains leading to floods, and tropical cyclones, have not spared the Common Market. The recent devastating effects of Tropical Cyclone Freddy in the southern region of Malawi stand to bear witness.

As part of its corporate social responsibility the Commission pledges to continue supporting Member States in their efforts to preserve the environment. The Commission recognises that among the mitigating measures is to encourage the planting of trees. To this end, the COMESA Competition Commission partnered with your government in a Tree Planting Programme conducted on 24 April 2023 where tree seedlings were planted.

**Your Excellency, distinguished delegates, ladies, and gentlemen**

The last decade has indeed been an interesting journey for the COMESA Competition Commission, and it is worth noting that our stakeholders have been critical in shaping the COMESA competition law enforcement regime. Therefore, as I conclude, my remarks allow to express my gratitude to a few people who have been influential in this respect. I recognise,

- **The COMESA Secretariat under the leadership of Secretary General**, for the policy support and bridging the gap between the Commission and Member States.

- **The Board of Commissioners**, for the policy oversight and supporting the mandate of the Commission
- **The Staff of the Commission**, for the continued commitment to the mandate and ensuring that the Commission works.
- **The International Cooperating Partners**, for cooperating with the Commission on capacity building, technical assistance and advocacy initiatives.

I thank you for your attention and your continued support.