

SUBSIDIARY LEGISLATION

COMPETITION AND FAIR TRADING REGULATIONS

under s. 53

G.N. 20/2006

1. Citation

These Regulations may be cited as the Competition and Fair Trading Regulations.

2. Oath of secrecy

(1) Every member of the Commission or a committee of the Commission upon the assumption of his office in terms of section 23, shall take the oath of secrecy in the prescribed form contained in the First Schedule hereto.

(2) Every employee of the Commission or consultant in the service of the Commission upon the assumption of his office or duties, as the case may be, in terms of section 23, shall take the oath of secrecy in the prescribed form contained in the First Schedule hereto.

3. Application for authorization for relocation of core-company assets

(1) An enterprise may apply to the Commission for authorization for relocation of core-company assets in terms of section 8 (1) of the Act.

(2) The application referred to in subregulation (1) shall be made in the prescribed form contained in the Second Schedule hereto.

4. Application for authorization of exclusive dealing arrangement

(1) An enterprise may apply to the Commission for authorization to enter into an exclusive dealing arrangement, in terms of section 32 (2) (c) of the Act, where the enterprise is of the view that such agreement would not—

- (a) limit access to market;
- (b) unduly restrain competition; or
- (c) have or likely to have adverse effect on trade or the economy in general.

(2) The application referred to in subregulation (1) shall be made in the prescribed form contained in the Second Schedule hereto.

5. Application for authorization for full-line forcing, bundling or tying arrangements

(1) An enterprise may apply to the Commission for authorization to engage in full-line forcing, bundling or tying arrangements, in terms of section 32 (2) (d) of the Act, where the enterprise is of the view that such acts would not—

- (a) limit access to markets;
- (b) unduly restrain competition; or
- (c) have or likely to have adverse effect to trade or the economy in general.

(2) The application referred to in subregulation (1) shall be made in the prescribed form contained in the Second Schedule hereto.

6. Application for authorization for resale price maintenance

(1) An enterprise may apply to the Commission for authorization to engage in resale price maintenance in terms of section 32 (2) (f) of the Act, where the enterprise is of the view that such act would not—

- (a) limit access to markets;
- (b) unduly restrain competition; or
- (c) have or likely to have adverse effect on trade or the economy in general.

(2) The application referred to in subregulation (1) shall be made in the prescribed form contained in the Second Schedule hereto.

7. Application for authorization to enter into trade agreement

(1) An enterprise may apply to the Commission for authorization to enter into trade agreement where the enterprise is of the view that such agreement would not—

- (a) hinder or prevent the sale or supply or purchase of goods or services between persons;
- (b) limit or restrict the terms and conditions of sale or purchase between persons engaged in the sale of purchased goods or services in terms of section 32 (2) (g) of the Act.

(2) The application referred to in subregulation (1) shall be made in the prescribed form contained in the Second Schedule hereto.

8. Application for authorization for negative clearance

(1) An enterprise may apply to the Commission for authorization for negative clearance in terms of section 32 (2) of the Act, where the enterprise is of the view that such act would not—

- (a) limit access to markets;

(b) unduly restrain competition; or

(c) have or likely to have adverse effect to trade or the economy in general.

(2) The application referred to in subregulation (1) shall be made in the prescribed form contained in the Second Schedule hereto.

9. Application for authorization of a merger, takeover or acquisition

Any person who wishes to effect a merger, takeover or acquisition between two or more enterprises in terms of section 35 of the Act, shall apply to the Commission for authorization in the prescribed form contained in the Second Schedule hereto.

10. Unfair trading practices

(1) Any person may lodge a complaint with the Commission in the prescribed form contained in the Third Schedule hereto, regarding unfair trading practice in terms of section 43 of the Act.

11. Fees

(1) Any person who applies for authorization to the Commission under regulations 3 to 9 shall pay such fees as set out in the Fourth Schedule hereto.

(2) The Commission may from time to time revise the fees referred to in subregulation (1).

12. Consideration of the applications by the Commission

(1) The Commission shall consider an application made by an enterprise taking into consideration the objectives of the Act and in order to give effect to the same.

(2) The Commission may, where necessary—

(a) investigate any application made under the regulations above and for that purpose may—

(i) require from the enterprise making the application to furnish the Commission with any necessary documents; or

(ii) access the records of the enterprise;

(b) require any person possessing the records of an enterprise to give to the Commission copies of those records;

(c) require the personal attendance of the persons making the application before the Commission to explain or clarify matters; or

(d) seek the views of other enterprises who are carrying on similar business as the applicant or the views of the persons who may be affected if such request was granted by the Commission.

(3) The Commission shall make its determination whether or not to grant the authorization within forty-five (45) days of receipt of the application:

Provided that where the Commission requests additional information the forty-five (45) days shall start running from the date the Commission acquires the requested information.

(4) The Commission shall inform an applicant of its decision in writing and, where the Commission has rejected the application, it shall furnish the applicant with the reasons for rejecting the application.

13. Offence and penalty

(1) Any person who contravenes or fails to comply with the provisions of these Regulations commits an offence.

(2) Any person guilty of an offence under subregulation (1) shall, upon conviction, be liable to a fine of K1,000 and to three (3) months imprisonment.

FIRST SCHEDULE

OATH OF SECRECY FORMS s. 23; reg. 2

FORM I OATH OF SECRECY FOR A MEMBER OF THE COMMISSION

FORM II OATH OF SECRECY FOR A MEMBER OF A COMMITTEE OF THE COMMISSION

FORM III OATH OF SECRECY FOR AN EMPLOYEE OF THE COMMISSION

FORM IV OATH OF SECRECY FOR A CONSULTANT IN THE SERVICE OF THE COMMISSION

FORM I

THE COMPETITION AND FAIR TRADING ACT

(CAP 48:09)

CONFIDENTIAL

SOLEMN AFFIRMATION

OATH OF SECRECY FOR A MEMBER OF THE COMPETITION AND FAIR TRADING COMMISSION s. 23; reg. 2
(1)

I, being called upon to exercise the duties and functions of a member of the Competition and Fair Trading Commission, in pursuance of section 23 of the Act, do

swear that I will not, directly or indirectly, reveal to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of the exercise of my duties or functions as such.

SO HELP ME GOD

Signed:

Sworn before me this day of, 20

.....

Commissioner for Oaths

FORM II

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

CONFIDENTIAL

SOLEMN AFFIRMATION

OATH OF SECRECY FOR A MEMBER OF A COMMITTEE OF THE COMPETITION AND FAIR TRADING COMMISSION s. 23; reg. 2 (1)

I, being called upon to exercise the duties and functions of a member of a committee of the Competition and Fair Trading Commission, in pursuance of section 23 of the Act, do swear that I will not, directly or indirectly, reveal to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of the exercise of my duties or functions as such.

SO HELP ME GOD

Signed:

Sworn before me this day of, 20

.....

Commissioner for Oaths

FORM III

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

CONFIDENTIAL

SOLEMN AFFIRMATION

OATH OF SECRECY FOR AN EMPLOYEE OF THE COMPETITION AND FAIR TRADING COMMISSION s. 23; reg. 2 (2)

I, being called upon to exercise the duties and functions as an employee of the Competition and Fair Trading Commission, in pursuance of section 23 of the Act, do swear that I will not, directly or indirectly, reveal to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of the exercise of my duties or functions as such.

SO HELP ME GOD

Signed:

Sworn before me this day of, 20

.....

Commissioner for Oaths

FORM IV

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

CONFIDENTIAL

SOLEMN AFFIRMATION

OATH OF SECRECY FOR A CONSULTANT IN THE SERVICE OF THE COMPETITION AND FAIR TRADING COMMISSION s. 23; reg. 2 (2)

I, being in the service of the Competition and Fair Trading Commission as a consultant, in pursuance of section 23 of the Act, do swear that I will not, directly or indirectly, reveal to any unauthorized person or otherwise than in the course of duty the contents or

any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of the exercise of my duties or functions as such.

SO HELP ME GOD

Signed:

Sworn before me this day of, 20

.....

Commissioner for Oaths

SECOND SCHEDULE

FORMS

FORM NO. CFTC/I APPLICATION FOR AUTHORIZATION FOR A PROPOSED RELOCATION OF CORE COMPANY ASSETS

FORM NO. CFTC/II APPLICATION FOR AUTHORIZATION FOR EXCLUSIVE DEALING ARRANGEMENT

FORM NO. CFTC/III APPLICATION FOR AUTHORIZATION FOR A FULL-LINE FORCING BUNDLING OR TYING ARRANGEMENTS

FORM NO. CFTC/IV APPLICATION FOR AUTHORIZATION FOR RESALE PRICE MAINTENANCE

FORM NO. CFTC/V APPLICATION FOR AUTHORIZATION FOR A TRADE AGREEMENT

FORM NO. CFTC/VI APPLICATION FOR AUTHORIZATION OF A PROPOSED MERGER/TAKEOVER/ACQUISITION

FORM NO. CFTC/VII APPLICATION FOR AUTHORIZATION FOR NEGATIVE CLEARANCE

FORM NO. CFTC/I

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

APPLICATION FOR AUTHORIZATION OF A PROPOSED RELOCATION OF CORE COMPANY ASSETS s. 8 (1),
reg. 3

To: The Executive Director
The Competition and Fair Trading Commission
P.O. Box 30366
Lilongwe 3

PART I

BACKGROUND INFORMATION

1. Information from the Applicant(s):

Give details of—

(a) name and address of undertaking:

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.....

(b) nature of the undertaking's business:

.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

.....
.....
.....

2. Information of the other parties to the arrangement:

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

(a) name and address of undertaking:

.....
.....

.....

(b) nature of the undertaking's business:

.....

.....

.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

.....

.....

.....

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 undertakings, such representatives shall produce written proof that they are authorized to act.

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) telephone number and fax number:

6. 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) telephone number and fax number:
-

PART II

DETAILS OF THE CONDUCT, RELOCATION OF COMPANY ASSETS

7. Give a full listing and description of the plant and machinery to be relocated out of Malawi and subject of this notification. Include the plant rated capacity, current utilization rate, dates of manufacture and purchase, and country of origin.

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7.1 Give a full description of the production process and an identification of where the plant and machinery to be relocated is used.

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.....

7.2 Indicate whether or not the plant and machinery has alternative usage in Malawi and the current product or service supply situation in the country.

7.3 Give details of firms and their locations that are using similar plant and machinery in Malawi.

7.4 Give the market value of the plant and machinery to be relocated.

PART III

MARKET STRUCTURE

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, i.e. who are the suppliers and the service providers to your company?

.....
.....

8.2 Indicate the anticipated effects of the relocation on the company's product lines, customers and consumers, resellers and other service providers, etc. (indicate whether the effects are positive or negative) Explain.

8.3 What are relative market shares of other suppliers/manufacturers using similar plant and machinery?

.....
.....

8.4 Is your company and industry affected by imported products in markets?

.....
.....

Structure of Demand in affected Markets

9. Identify five largest customers 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.

Customer 1	%
Customer 2	%
Customer 3	%
Customer 4	%
Customer 5	%
Others	%

9.1 State the name, address, fax, and telephone numbers of the contact person for each customer mentioned in 9 above:

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.....
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.....

9.2 Explain the structure of demand in terms of—

(a) what has been the trend in the demand for the products from the plant and machinery to be relocated (i.e. downward, stable, upward, etc.). Please itemize trend for each product?

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.....

(b) what would you consider as the strong factors to your products doing well on the market, why do customers prefer your products?

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.....

(c) what is the degree of concentration or dispersion of customers on the Malawian market?

.....

(d) the basis of 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 like government agencies, state enterprises or similar bodies are important participants as a source of demand:

.....
.....

PART IV

MARKET ENTRY

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

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11. If there has been significant entry into the market provide names, address, telephone number and contact person of market entrants:

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.....

12. In the opinion of parties making this notification, are there any undertakings likely to enter the market?

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.....

13. If there is likely to be new entrants in the market, give names, addresses and contact telephone numbers of such entrants:

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.....

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

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.....

15. 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 (R & D, 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:

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.....

(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 concentration are licensees or licensors of patents, know-how and other rights in the relevant markets:

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.....

(e) the importance of economies of scale for the production of products in the fledged markets:

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.....

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

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PART V

CONSIDERATION OF PUBLIC INTEREST ISSUES

15. Depending on your particular situation, the transaction may warrant justification on public interest grounds which may include such factors as the ones listed below herewith on which you may want to make detailed comments—

15.1 A particular (industrial) sector or region.

15.2 Employment.

15.3 The ability of small businesses or the informal sector or the socially disadvantaged and persons with disabilities to become competitive i.e. impact in expanding the base of entrepreneurship and human development.

15.4 The ability of national industries to compete in international markets.

PART VI

GROUND FOR GRANTING THE AUTHORIZATION

16. 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:

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.....

16.1 Facts and contentions relied upon to substantiate this claim:

.....

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

PART VII

DECLARATION

The undersigned declare that, to the best of their knowledge and belief, the information given in this notification is true, correct and complete, that complete copies of documents required under this form have been supplied, and that all estimates are identified as such and are their best estimates of the underlying facts and that all the opinions expressed are sincere.

Dated at this day of year

Name(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 Shareholder, Board or management official statement on the transaction;

Other market or industry study reports that support the transaction.

NOTES:

1. 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.
2. If the information required in 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.
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 in 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 50 (c) 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 of 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 notification must be completed in English and type-written or printed. The information requested in 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 certified copies of the originals. In the latter 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 Commission working hours at the following address—

The Competition and Fair Trading Commission

P. O. Box 30366

Lilongwe 3

Tel: 01 774 940/01 770 244 Fax: 01 770 680

E-mail: malawicftc@gmail.com website:

FORM NO. CFTC/II

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

APPLICATION FOR AUTHORIZATION OF EXCLUSIVE DEALING ARRANGEMENT s. 32 (2) (d); reg. 4

To: The Executive Director

The Competition and Fair Trading Commission

P.O. Box 30366

Lilongwe 3

PART I

BACKGROUND INFORMATION

1. Information from the Applicant(s): Give details of—

(a) name and address of undertaking:

.....

.....

(b) nature of the undertaking's business:

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.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

.....
.....
.....

2. Information on the other parties to the arrangement:

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

(a) name and address of undertaking:

.....
.....
.....

(b) nature of undertaking's business:

.....
.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

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.....
.....

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 undertakings, such representatives shall produce written proof that they are authorized to act.

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) telephone number and fax number:

6. 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) telephone number and fax number:

.....

PART II

DETAILS OF THE ARRANGEMENT

7. Describe goods and services in relation to the supply or acquisition of which this application relates:

7.1 Describe competing goods and services of which the distributors are not allowed to engage in:

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8. Identify the possible area(s) or market which will be affected by the Agreement in Malawi:

.....

.....

9. Give a list of all other undertakings which are engaged in the production of competing goods and services forbidden by the said Agreement:

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.....

10. Does the agreement grant the distributor also an exclusive territory? (if so, give details):

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11. What are the normal conditions you require to grant a distributorship?

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.....

.....

12. Describe what either party brings in the arrangement i.e. consideration:

.....

.....

.....

13. What is your current market share in the relevant market?

.....

14. 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:

.....

.....

PART III

MARKET STRUCTURE

Structure of Supply in affected Markets

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

15.1 Distribution systems prevailing on the affected markets and their importance:

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.....

15.2 The service networks performed by third parties prevailing and their importance:

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.....

15.3 What are relative market shares of other suppliers, manufacturers?

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.....

15.4 What is the importance of import competition?

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.....

Structure of Demand in affected Markets

16. Identify five largest customers 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:

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.....

16.1 State the name, address, fax, telephone numbers of the contact person for each customer mentioned in 16, above:.....

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16.2 Explain the structure of demand in terms of—

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

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.....
.....

(b) the importance 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 importance 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:

.....
.....

PART IV

BUSINESS JUSTIFICATION OF THE AGREEMENT

17. What is the duration of the Agreement:

18. What are the special features of the goods or services of the contract, such as, do they require any special handling, storage or distribution, etc.

.....
.....
.....

19. Is there any unwillingness of dealers to handle the product without exclusive dealership or territory restrictions:

.....

20. 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:

.....
.....

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

PART V

DECLARATION

The undersigned declare that, to the best of their knowledge and belief, the information given in this notification is 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 facts and that all the opinions expressed are sincere.

Dated at this day of year

Names(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 official statement on the transaction;

Other market or industry study reports that support the transaction.

NOTES:

1. 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.
2. If the information required in 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.
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 in 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 50 (c) 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 of 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 notification must be completed in English and type-written or printed. The information requested in 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 certified copies of the originals. In the latter 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 Commission working hours at the following address—

The Competition and Fair Trading Commission

P.O. Box 30366

Lilongwe 3

Tel: 01 774 940/ 01 770 244 Fax: 01 770 680

E-mail: malawicftc@gmail.com Website:

FORM NO. CFTC/III

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

APPLICATION FOR THE AUTHORIZATION FOR FULL-LINE FORCING BUNDLING OR TYING ARRANGEMENTS

s. 32 (2) (d); reg. 5

To: The Executive Director
The Competition and Fair Trading Commission
P.O. Box 30366
Lilongwe 3

PART I

BACKGROUND INFORMATION

1. Information from the Applicant(s):

Give details of—

(a) name and address of undertaking:

.....
.....

(b) nature of the undertaking's business:

.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

.....
.....
.....

2. Information on the other parties to the arrangement:

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

(a) name and address of undertaking:

.....
.....
.....

(b) nature of undertaking's business:

.....
.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

.....
.....
.....

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 undertakings, such representatives shall produce written proof that they are authorized to act.

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) telephone number and fax number:

6. 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:
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.....
- (c) name of person to be contacted (and address, if different from (b) above):
.....
.....
.....
- (d) telephone number and fax number:

PART II

PRODUCT MARKET

7. Description of goods and services in relation to the supply or acquisition of which this application relates:

.....
8. Description of the conduct of a kind referred to in s. 32 (2) (d):

.....
9. Grounds for the granting of the authorization:

.....
10. Describe the relevant geographic market:
.....
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.....

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

PART III

MARKET STRUCTURE

Structure of Supply in affected Markets

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

11.1 Distribution systems prevailing on the affected markets and their importance:

.....
.....

11.2 The service networks performed by third parties prevailing and their importance:

.....
.....

11.3 What are relative market shares of other suppliers/manufacturers?

.....
.....

11.4 What is the importance of import competition?

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.....

Structure of Demand in affected Markets

12. Identify five largest customers 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:

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12.1 State the name, address, fax, telephone numbers of the contact person for each customer mentioned in 12 above:

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12.2 Explain the structure of demand in terms of—

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

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

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.....

(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 like government agencies, state enterprises or similar bodies are important participants as a source of demand:

.....

.....

PART IV

GROUNDS FOR GRANTING THE AUTHORIZATION

13. 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:

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14. Facts and contentions relied upon to substantiate this claim:

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.....

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

PART V

DECLARATION

The undersigned declare that, to the best of their knowledge and belief, the information given in this notification is 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 facts and that all the opinions expressed are sincere.

Dated at this day of year.....

Name(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 official statement on the transaction;

Other market or industry study reports that support the transaction.

NOTES:

1. 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.
2. If the information required in 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.
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 in 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 50 (c) 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 of 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 notification must be completed in English and type-written or printed. The information requested in 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 certified copies of the originals. In the latter 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 Commission working hours at the following address—

The Competition Fair Trading Commission

P. O. Box 30366

Lilongwe 3

Tel: 01 774 940/ 01 770 244 Fax: 01 770 680

E-mail: malawicftc@gmail.com Website:

FORM NO. CFTC/IV

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

APPLICATION FOR AUTHORIZATION FOR RESALE PRICE MAINTENANCE s. 32 (2) (f); reg. 6

To: The Executive Director

The Competition and Fair Trading Commission

P.O. Box 30366

Lilongwe 3

PART I

BACKGROUND INFORMATION

1. Information from the Applicant(s):

Give details of—

(a) name and address of undertaking:

.....
.....

(b) nature of the undertaking's business:

.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

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.....
.....

2. Information on the other parties to the arrangement:

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

(a) name and address of undertaking:

.....
.....

(b) nature of undertaking's business:

.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

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.....

.....

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 undertakings, such representatives shall produce written proof that they are authorized to act.

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) telephone number and fax number:

6. 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) telephone number and fax number:

.....

PRODUCT MARKET

7. Description of goods and services in relation to the supply or acquisition of which this application relates:

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.....

7.1 Description of the conduct that may constitute resale price maintenance:

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.....

7.2 Describe the relevant geographic market:

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.....
.....

PART III

MARKET STRUCTURE

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:

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.....

8.3 What are relative market shares of other suppliers/manufacturers?

.....
.....

8.4 What is the importance of import competition?

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Structure of Demand in affected Markets

9. Identify five largest customers 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:

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9.1 State the name, address, fax, telephone numbers of the contact person for each customer mentioned in 9 above:.....

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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:

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

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(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 like government agencies, state enterprises or similar bodies are important participants as a source of demand:

.....

.....

PART IV

GROUNDS FOR GRANTING THE AUTHORIZATION

10. 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:

.....

.....

.....

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

PART V

DECLARATION

The undersigned declare that, to the best of their knowledge and belief, the information given in this notification is 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 facts and that all the opinions expressed are sincere.

Dated at this day of year.....

Name(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 official statement on the transaction;

Other market or industry study reports that support the transaction.

NOTES:

1. 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.
2. If the information required in 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.
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 in 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 50 (c) 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 of 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 notification must be completed in English and type-written or printed. The information requested in 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 certified copies of the originals. In the latter 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 Commission working hours at the following address—

The Competition Fair Trading Commission

P. O. Box 30366

Lilongwe 3

Tel: 01 774 940/ 01 770 244 Fax: 01 770 680

E-mail: malawicftc@gmail.com Website:

FORM NO. CFTC/V

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

APPLICATION FOR AUTHORIZATION FOR A TRADE AGREEMENT s. 32 (2) (g); reg. 7

To: The Executive Director

The Competition and Fair Commission

P.O. Box 30366

Lilongwe 3

PART I

BACKGROUND INFORMATION

1. Information from the Applicant(s):

Give details of—

(a) name and address of undertaking:

.....

.....
(b) nature of the undertaking's business:

.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

.....
.....

2. Information on the other parties to the arrangement:

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

(a) name and address of undertaking:

.....
.....

(b) nature of undertaking's business:

.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

.....
.....

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 undertakings, such representatives shall produce written proof that they are authorized to act.

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) telephone number and fax number:

6. 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 (if different from (b) above):
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.....
.....
- (d) Telephone number and fax number:

PART II

AGREEMENTS BY ASSOCIATIONS

7. The agreement by which the association is formed:

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.....

7.1 Description of any recommendations issued to members (with copy of relevant extracts from the minutes, if any, authorizing those recommendations):

.....
.....
.....

(see Declaration below)

PART III

FULL DETAILS OF THE ARRANGEMENT

8. 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:

.....
(h) list of all the parties (e.g. agents or distributors) to the agreement:
.....

PART IV

MARKET STRUCTURE

Structure of Supply in affected Markets

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

9.1 Distribution systems prevailing on the affected markets and their importance:

.....
.....

9.2 The service networks performed by third parties prevailing and their importance:

.....
.....

9.3 What are relative market shares of other suppliers/manufacturers?

.....
.....

9.4 What is the importance of Import Competition?

.....
.....

Structure of Demand in affected Markets

10. Identify five largest customers 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:

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10.1 State the name, address, fax, telephone numbers of the contact person for each customer mentioned in 10, above:

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10.2 Explain the structure of demand in terms of—

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

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

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.....

(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 like government agencies, state enterprises or similar bodies are important participants as a source of demand:

.....

PART V

GROUNDS FOR GRANTING THE AUTHORIZATION

11. 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:

.....

.....

.....

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

PART VI

DECLARATION

The undersigned declare that, to the best of their knowledge and belief, the information given in this notification is 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 facts and that all the opinions expressed are sincere.

Dated at this day of year.....

Name(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 official statement on the transaction;

Other market or industry study reports that support the transaction.

NOTES:

1. 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.
2. If the information required in 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.
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 in 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 50 (c) 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 of 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 notification must be completed in English and type-written or printed. The information requested in 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 certified copies of the originals. In the latter case the notifying party shall confirm that they are true and complete.
7. If an agreement is made by a trade or a service association. The parties include all the association's members but, if there are more than 50, there is no need to give names and addresses, an approximation of the total membership is sufficient.
8. Where an agreement made among the members of a trade or services supply association is contained in its constitution, the rules, regulations, by-laws or resolutions of the association must be provided to the Commission.

9. 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.

10. The notification should be delivered during normal Commission working hours at the following address—

The Competition Fair Trading Commission

P. O. Box 30366

Lilongwe 3

Tel: 01 774 940/ 01 770 244 Fax: 01 770 680

E-mail: malawicftc@gmail.com Website:

FORM NO. CFTC VI

THE COMPETITION AND FAIR TRADING ACT

(CAP. 8:09)

APPLICATION FOR AUTHORIZATION OF A PROPOSED MERGER/TAKEOVER/ACQUISITION s. 35; reg. 8

To: The Executive Director

The Malawi Competition and Fair Trading Commission

P.O. Box 30366

Lilongwe 3

PART I

BACKGROUND INFORMATION

1. Information from the Applicant(s):

Give details of—

(a) name and address of undertaking:

.....
.....

(b) nature of the undertaking's business:

.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

.....
.....
.....

2. Information on the other parties to the arrangement:

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

(a) name and address of undertaking:

.....
.....
.....

(b) nature of undertaking's business:

.....
.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

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.....
.....

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 undertakings, such representatives shall produce written proof that they are authorized to act.

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) telephone number and fax number:

6. 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) telephone number and fax number:

PART II

OWNERSHIP AND CONTROL

7. For each of the parties to the concentration provide a list of all undertakings belonging to the same group. The list must include—

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

.....
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.....
.....

7.2 Names and addresses of the current and past (two years) shareholders of each of the undertaking to the concentration:

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.....

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

.....
.....

7.4 All undertakings active on any affected market that are controlled, directly or indirectly—

(a) by these parties:

.....

(b) by any other undertaking identified in 7.3 above:

.....

.....

For each entry listed above, the nature and means of control shall be specified.

PART III

DETAILS OF THE CONCENTRATION

8. Briefly describe the nature of the concentration being notified. In doing so state—

(a) whether the proposed concentration 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:

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.....

(b) whether the whole or parts of parties are subject to the concentration:

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.....

(c) a brief explanation of the economic and financial structure of the concentration:

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.....

(d) the proposed or expected date of any major events designed to bring about the completion of the concentration:

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.....

(e) the proposed structure of ownership and control after the completion of the concentration:

.....
.....

PART IV

MARKET STRUCTURE

Structure of Supply in affected Markets

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

9.1 Distribution systems prevailing on the affected markets and their importance:

.....

9.2 The service networks performed by third parties prevailing and their importance:

.....
.....

9.3 What are relative market shares of other suppliers, manufacturers?

.....
.....

9.4 What is the importance of import competition?

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Structure of Demand in affected Markets

10. Identify five largest customers 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:

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10.1 State the name, address, fax, telephone numbers of the contact person for each customer mentioned in 16 above:

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10.2 Explain the structure of demand in terms of—

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

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(b) the importance 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 importance 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:

.....
.....

PART V

MARKET ENTRY

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

.....
.....

12. If there has been significant entry into the market provide names, address, telephone numbers and contact person of market entrants:.....

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.....

13. In the opinion of parties making this notification, are there any undertakings likely to enter the market?

.....

.....

14. If there is likely to be new entrants in the market, give names, addresses and contact telephone numbers of such entrants:

.....

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

.....

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16. 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 (R & D, 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 concentration are licensees or licensors of patents, know-how 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 VI

FULL DETAILS OF THE ARRANGEMENT

17. 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:

.....

18. 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?

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19. 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?

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PART VII

GROUNDINGS FOR GRANTING THE AUTHORIZATION

20. 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:

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20.1 Facts and contentions relied upon to substantiate this claim (this may include competitive effects, efficiencies, failing firms, public interest issues e.g. employment, export development, increased tax, consumer welfare, technological transfer, MNC presence, market development, etc.):

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.....

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

PART VIII

DECLARATION

The undersigned declare that, to the best of their knowledge and belief, the information given in this notification is 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 facts and that all the opinions expressed are sincere.

Dated at this day of year.....

Name(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 official statement on the transaction;

Other market or industry study reports that support the transaction.

NOTES:

1. 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.
2. If the information required in 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.
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 in 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 50 (c) 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 of 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 notification must be completed in English and type-written or printed. The information requested in 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 certified copies of the originals. In the later case the notifying party shall confirm that they are true and complete.

7. CONFIDENTIALLY: 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 Commission working hours at the following address—

The Executive Director

The Malawi Competition and Fair Trading Commission

P.O. Box 30366

Lilongwe 3

Tel: 01 774 940 01 770 244 Fax: 01 770 680

E-mail: malawicftc@gmail.com Website:

FORM NO. CFTC/VII

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

APPLICATION FOR NEGATIVE CLEARANCE s. 32 (2); reg. 8

To: The Executive Director

The Competition and Fair Trading Commission

P.O. Box 30366

Lilongwe 3

PART I

BACKGROUND INFORMATION

1. Information from the Applicant(s):

Give details of—

(a) name and address of undertaking:

.....
.....

(b) nature of the undertaking's business:

.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

.....
.....
.....

2. Information on the other parties to the arrangement:

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

(a) name and address of undertaking:

.....
.....
.....

(b) nature of undertaking's business:

.....
.....
.....

(c) name, address, telephone number, fax number and position held by the appropriate contact person:

.....
.....
.....

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 undertakings, such representatives shall produce written proof that they are authorized to act.

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) telephone number and fax number:

6. 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) telephone number and fax number:

.....

PART II

DETAILS OF THE CONDUCT

7. Description of the conduct, arrangement, undertaking or practice which is being notified:

.....

7.1 Describe in detail the nature of the restriction(s) contained in the arrangement:

.....
.....

PART III

OWNERSHIP AND CONTROL

8. For each of the parties to the concentration provide a list of all undertakings belonging to the same group. The list must include—

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

.....
.....
.....
.....

8.2 Names and addresses of the current and past (two years) shareholders of each of the undertaking to the concentration:

.....

.....
.....
.....

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

.....
.....

8.4 All undertakings active on any affected market that are controlled directly or indirectly—

(a) by these parties:

.....

(b) by any other undertaking identified in 7.3 above:

.....

.....

PART IV

MARKET STRUCTURE

Structure of Supply in affected Markets

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

9.1 Distribution systems prevailing on the affected markets and their importance:

.....
.....

9.2 The service networks performed by third parties prevailing and their importance:

.....
.....

9.3 What are relative market shares of other suppliers/manufacturers?

.....
.....

9.4 What is the importance of import competition?

.....
.....

Structure of Demand in affected Markets

10. Identify five largest customers 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:

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.....
.....
.....
.....

10.1 State the name, address, fax, telephone numbers of the contact person for each customer mentioned in 16. above:

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.....
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.....

10.2 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 importance 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 importance 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:

.....

.....

PART V

GROUNDNS FOR GRANTING THE AUTHORIZATION

11. 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:

.....

.....

.....

11.1 Facts and contentions relied upon to substantiate this claim:

.....

.....

.....

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

PART VI

DECLARATION

The undersigned declare that, to the best of their knowledge and belief, the information given in this notification is 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 facts and that all the opinions expressed are sincere.

Dated at this day of year.....

Name(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 official statement on the transaction;

Other market or industry study reports that support the transaction.

NOTES:

1. 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.
2. If the information required in 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.
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 in 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.
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8. The notification should be delivered during normal Commission working hours at the following address—

The Competition and Fair Trading Commission

P. O. Box 30366

Lilongwe 3

Tel: 01 774 940/01 770 244 Fax: 01 770 680

E-mail: malawicftc@gmail.com website:

THIRD SCHEDULE

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

COMPLAINT AUTHORIZATION FORM s. 43; reg. 10

PART A

Name of Commission Officer: Date:

.....

.....

Name of Complainant(s):

.....

.....
Address(es):

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.....

Identification Document:

.....
.....
.....

Tel.: Mobile: Fax No.:

Occupation: Nationality:

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.....

Method of lodging a complaint:

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.....

Details of Trader:

.....
.....

Address:

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.....
.....

Tel.: Mobile: Fax No.:

Economic Sector:

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The alleged contravened section of the Act:

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SUMMARY OF COMPLAINT

NB. If space is not adequate use additional paper.

List of Documents attached, if any:

.....

Signature of Officer

Signature of Certifying Officer

.....

.....

Designation of Officer

Designation of certifying Officer

PART B

DECISION OF THE EXECUTIVE DIRECTOR

In terms of section 8 (2) (a) of the Act, I hereby authorize/do not authorize officers of the Competition and Fair Trading Commission to investigate the complaint whose details are contained in Part A of this document.

Therefore the following action should be taken:

..... Date:

Executive Director

FOURTH SCHEDULE

THE COMPETITION AND FAIR TRADING ACT

(CAP. 48:09)

FEES reg. 11

Type of fees Amount

 K t

- | | | | |
|-----|---|---------|----|
| (1) | Application fees for authorization for— | 70,000 | 00 |
| (a) | relocation of core-company assets | 700,000 | 00 |
| (b) | exclusive dealing arrangement | 700,000 | 00 |
| (c) | full-line forcing, bundling or tying arrangements | 700,000 | 00 |
| (d) | re-sale price maintenance | 700,000 | 00 |
| (e) | trade agreement | 700,000 | 00 |
| (f) | negative clearance | 700,000 | 00 |
| (2) | Notification for a merger, takeover or acquisition— | 700,000 | 00 |

0.05% of combined turnover or total assets, whichever is the higher, of the enterprises proposing to effect the merger or takeover.

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