



**FORM No. CFTC/VI
(Section 44)**

**THE COMPETITION AND FAIR TRADING ACT
(CAP. 48:09)**

APPLICATION FOR NEGATIVE CLEARANCE

TO: The Executive Director
The Competition and Fair Trading Commission
P/Bag 332
LILONGWE

PART 1

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:

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.....

- (b) Nature of undertaking's business:

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.....

- (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.

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.....

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

If no, please give details below of information of any representatives who have been authorised 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 2

DETAILS OF THE CONDUCT

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

.....

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

.....

.....

PART 3

OWNERSHIP AND CONTROL

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

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

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.....

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

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.....
.....

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

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.....

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

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PART 4

MARKET STRUCTURE
Structure of Supply in Affected Markets

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

Distribution systems prevailing on the affected markets and their importance

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The service networks performed by third parties prevailing and their importance

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What are relative market shares of other suppliers/manufacturers?

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.....

What is the importance of import competition?

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.....

Structure of Demand in Affected Markets

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

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

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.....

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

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.....

(c) the degree of concentration or dispersion of customers

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(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.....

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PART 5

GROUNDS FOR GRANTING THE AUTHORIZATION

11. 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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.....

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

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.....

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

PART 6

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 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 by this Form is not reasonably available to you in part or whole, the Commission will accept that the notification is complete and thus valid notwithstanding the failure to provide such information, provided that you give reasons for the unavailability of the said information, and provide your best estimates for the missing data together with the sources for the estimate. Where possible, indications as to where any of the requested information that is available to you could be provided.*
3. *The Commission only requests the submission of information relevant and necessary to its inquiry into the notified operation. If you consider that any particular information requested by this form may not be necessary for the Commission's examination of the case, you may explain this in your notification and ask the Commission to dispense with the obligation to provide that information.*
4. *Incorrect or misleading information in the notification will be considered to be incomplete information. The notification will only become effective on the date on which the complete and accurate information is received by the Commission. Section 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 by this Form is to be set out using the sections and paragraph numbers of the Form. The supporting or requested documents may be originals or copies of the originals. In the latter case the notifying party shall confirm that they are true and complete.*
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/Bag 332
Lilongwe 3
Tel: (265)310001440/41
E-mail: competitioncommission@cftc.mw
website: www.cftc.mw***