



Federal Competition and Consumer Protection Commission

MERGER REVIEW REGULATION FORM

INFORMATION REQUIRED – Merger Review Regulations. This form provides a framework for supplying to the Federal Competition and Consumer Protection Commission, the information required under part XII of the *Federal Competition and Consumer Protection Act*. This form should be completed jointly by parties to the proposed transaction. The requested information may be provided on the form or in appendices identified by the corresponding section number used in the form and should be bound together.

1. GENERAL INFORMATION

Combined Annual Turnover of merger parties

- ☐ Less than N1Billion
- ☐ N1Billion – N5Billion
- ☐ N5Billion – N10Billion
- ☐ N10Billion – above

Name of each merger party

Web/Email Address, Office/Mailing Address and Telephone Number of the Head Offices of each of the merger parties

Name, web/email address, telephone number and position of any authorized representatives of each of the merger parties (*where there is more than one more authorized representative, please indicate desired address/contact details for service*)

If not already provided above, name, web/email address, telephone number and position of person(s) submitting this Notice

If different from above, please provide name, web/email address, telephone number and position to whom the Commission should address any correspondence

Where an external representative is appointed, please provide Name, web/email address, telephone number of external representatives



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Indicate each of the notifying parties and the other parties to the merger and describe the nature of the undertaking's business



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To supply additional information, please attach appendices where applicable. Indicate the number of pages contained in each appendix in the appropriate column beside each section of this form.		No. of pages
2. DETAILS OF THE MERGER, OWNERSHIP AND CONTROL		
2.1	Please provide description of the nature of the merger being notified. By reference to the provisions of Section 92 (2) of the Act:	
2.2	Indicate the undertakings or persons solely or jointly controlling each of the undertakings concerned, directly or indirectly, and describe the structure of ownership and control of each of the undertakings concerned before the completion of the merger;	
2.3	<p>please indicate whether the proposed merger is:</p> <p><input type="radio"/> a purchase or lease of the shares, and interests or assets of the other undertaking in question;</p> <p><input type="radio"/> the amalgamation or other combination with the other undertaking in question;</p> <p><input type="radio"/> a joint venture.</p>	
2.4	Provide brief explanation on how the merger will be implemented (for example by conclusion of an agreement.	
2.5	Timing: specify the expected time scale for exchange of contracts and completion of the merger;	
2.6	<p>Disclose which of the following have taken place at the time of notification:</p> <p><input type="radio"/> <input type="radio"/> an agreement has been concluded;</p> <p><input type="radio"/> <input type="radio"/> a controlling interest has been acquired;</p> <p><input type="radio"/> <input type="radio"/> the intention to launch has been announced, or;</p> <p><input type="radio"/> the undertakings concerned have demonstrated a good faith intention to conclude an agreement, including the signing of a Memorandum of Understanding or and a Letter of intent or other pre- substantive agreement.</p>	
2.7	Indicate the expected date of any major events designed to bring about the completion of the merger;	
2.8	Specify the structure of ownership and control of each of the undertakings concerned after the completion of the merger;	



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2.9	Describe the strategic and economic rationale/justification of the merger as it affects Nigerian markets;	
2.10	State the value of the transaction (the purchase price (or the value of all the assets involved, as the case may be); specify whether this is in the form of equity, cash, or other assets);	
2.11	For the parties to the merger (other than the seller) provide a list of all other undertakings which are active in Nigeria or have a turnover element in Nigeria in which the undertakings, or persons, hold individually or collectively any voting rights, issued share capital or other securities, identifying the holder and stating the percentage held; and	
2.12	Provide details of whether the merger is being notified in any other jurisdictions and, if so, whether the merger parties are willing to offer a waiver to support coordination between the Commission and the competition authorities in those jurisdictions with foreign components.	
2.13	Provide a brief description of the businesses of the merger parties (and, where relevant, their groups).	
2.14	Provide brief details of any other transactions (merger, acquisition, disposal, joint venture) undertaken by: <ul style="list-style-type: none"> i. either of the merger parties in the last three years which involve the products or services in any Affected Market identified in response to question 7.1, and ii. both or all merger parties in the last three years (that is, where the merger parties were party to the same transaction). 	
3. ANNUAL TURNOVER		
3.1	Indicate the annual turnover in the last financial year associated with each of: <ul style="list-style-type: none"> a. the acquiring undertaking (including group companies where relevant, and b. the target undertaking c. for foreign to foreign mergers, the annual turnover of the Nigerian component is required. 	
4. SUPPORTING DOCUMENTS		
4.1	The notifying party or parties must provide the following: <ul style="list-style-type: none"> a. copies of the final or most recent versions of all documents bringing about the merger, including heads of terms, memorandum of understanding, sale and purchase agreement, business purchase agreement or equivalent. Where these are not in final form, please provide the latest draft and keep the Commission informed of subsequent changes to the document, if any. 	

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	<p>b. copies of the following documents prepared by or for or received by any member(s) of the board of management, the board of directors, or the supervisory board, as applicable in the light of the corporate governance structure, or the other person(s) exercising similar functions (or to whom such functions have been delegated or entrusted), or the shareholders' meeting:</p> <p>i. extracts of minutes of the meetings of the board of management, board of directors, supervisory board and shareholders' meeting at which the transaction has been discussed, or excerpts of those minutes relating to the discussion of the transaction;</p> <p>ii. analysis, reports, studies, surveys, presentations and any comparable documents for the purpose of assessing or analysing the merger with respect to its rationale (including documents where the transaction is discussed in relation to potential alternative acquisitions), market shares, competitive conditions, competitors (actual and potential), potential for sales growth or expansion into other product or geographic markets, and/or general market conditions;</p> <p>iii. analysis, reports, studies, surveys and any comparable documents from the last two years for the purpose of assessing any of the affected markets with respect to market shares, competitive conditions, competitors (actual and potential) and/or potential for sales growth or expansion into other product or geographic markets.</p>	
4.2	<p>Provide copies of the most recent business plan of the acquirer and acquirer group (if relevant) and the target (or merger parties in the case of a full merger). Where a horizontal overlap or vertical relationship involves, for example, a specific division or brand of one or both of the merger parties, the most recent business plan for the relevant division or brand should be provided as well.</p>	
4.3	<p>Provide copies of any documents in either of the merger parties' possession which:</p> <p>a. have been prepared by or for, or received by, any member of the board of directors (or equivalent body) or senior management or the shareholders' meeting of either merger party (whether prepared internally or by external consultants), and</p> <p>b. either:</p> <p>(i) set out the rationale for the merger (including but not limited to the benefits of, and/or investment case for the acquisition), or</p> <p>(ii) assess or analyse the merger with respect to competitive conditions, competitors (actual and potential), potential for sales growth or expansion into new product or geographic areas, market conditions, market shares and/or the price to be paid. This should include but not necessarily be limited to post-merger business plans or strategy (including integration plans and financial forecasts) and Information Memoranda prepared by or for the merger parties that specifically relate to the sale of the merger transaction. If no such Information Memoranda exist, explain what information or document(s) given to any of the merger parties is meant to serve the function of an Information Memorandum.</p>	



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5.	INDUSTRY/MARKET REPORTS	
5.1.	<p>Provide copies of documents (including, but not necessarily limited to, reports, presentations, studies, internal analyses, industry/market reports or analysis, including customer research and pricing studies) in either merger parties' possession and prepared or published in the last two years which:</p> <ul style="list-style-type: none"> i. have been prepared by or for, or received by, any member of the board of directors (or equivalent body) or senior management of either merger party (whether prepared internally or by external consultants), and ii. set out the competitive conditions, market conditions, market shares, competitors, or the merging parties' business plans in relation to the product(s) or service(s) where the merger parties have a horizontal overlap as identified in response to question 12 below. 	
6.	COMPETITION ASSESSMENT	
6.1	If the notifying parties consider that the Commission should assess the competitive effects of the merger against a counterfactual other than the current or pre-existing competitive situation, please describe that counterfactual and explain why the notifying parties consider it should be used for that assessment.	
7.	MARKET DEFINITION	
7.1	Describe the product(s) or service(s) and geographic area(s) where the merger parties overlap, where they have a vertical relationship, or where they supply related products/services.	
8.	STRUCTURE OF DEMAND AND SUPPLY IN AFFECTED MARKETS	
8.1	<p>Identify (and explain the rationale for identifying):</p> <ul style="list-style-type: none"> i. the narrowest Affected product/service and geographic market(s) where the merger parties overlap, and (if the parties have a vertical relationship or supply related products/services) the narrowest Affected product/service and geographic market(s) at each level of the vertical supply chain and for each related product/service (the Narrowest Affected Market(s)). ii. any other plausible Affected product/service and geographic market(s) where the merger parties overlap, have a vertical relationship, or supply related products/services (together with the Narrowest Affected Market(s), the Affected Market(s)). 	
8.2.	Provide the structure of supply and demand (by value and, where appropriate, volume) for the undertakings and each of their principal competitors for the affected markets;	
8.3.	<p>Provide brief explanation on the following:</p> <ul style="list-style-type: none"> a. Degree of product differentiation in each of the affected markets; 	



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	<p>b. Significant entry into any affected market in the last five years;</p> <p>c. Significant exit from any affected market in the last five years.</p>	
8.4.	<p>Provide a description of how competition works in each Affected Market where the merger parties overlap. The description of such competitive dynamics in the Affected Market should include (but not necessarily be limited to):</p> <ul style="list-style-type: none"> i. information on the competitive constraint posed by each of the merger parties on each other and on the competitive constraint posed by the other principal suppliers in the Affected Market(s); ii. an explanation of what drives customer choice for the overlap product/services. Where relevant, the response should include the identification of separate customer groups, if any, and an explanation of how the competitive dynamics differ across these customer groups; iii. a description of the parameters of competition (for example, price, quality, service, innovation) and their importance relative to one another; iv. an explanation of the role and significance of product/service differentiation (including an explanation of the extent to which the merger parties' products/services are differentiated); v. an explanation of how pricing is determined (for example, whether set by suppliers, negotiated between suppliers and customers, or the result of a bidding process organised by customers), including, in appropriate cases (as explained below), supporting documentation; and vi. an explanation of the supply chain (including distribution channels) for the product(s)/service(s), and of any differences between separate geographic areas, where the merger parties overlap, in relation to the supply of the same products/services. 	
8.5.	<p>For Affected Markets characterised by bidding processes and/or where customers typically issue requests for quotations, provide bidding data setting out any bids made by each of the merger parties to win business in the overlapping markets.</p>	
8.6.	<p>If applicable, for any product(s) (including raw materials) or service(s) which the merger parties both purchase, provide details of the merger parties' ability to obtain more favourable commercial conditions from suppliers as a result of this merger and the effects, if any, of such increased ability on competition at any levels of the supply chain.</p>	
8.7.	<p>Describe whether any merger party has plans or has attempted in the last three years to start supplying product(s)/service(s)/geographic area(s) which it does not currently supply but which the other merger party is already supplying (or expected to supply). If so:</p> <ul style="list-style-type: none"> i. Provide any internal documents setting out plans of any merger party to expand in the overlapping product(s), service(s) and/or geographic area(s) or to enter a market where another merger party is operating. ii. Explain what barriers to entry or expansion exist for each merger party to start supplying product(s)/service(s)/geographic area(s) which it does not currently supply but which the other merger party is already supplying (or expected to supply). 	



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8.8	If the merger parties operate at different levels of the supply chain (that is, a merger party is engaged in activities upstream or downstream of the activities in which the other merger party is engaged), describe the impact of the merger on the ability and incentive of the merged entity to foreclose rivals (including partial and/or full foreclosure) post-transaction, either by limiting the supply of key inputs or access to customers.	
8.9	If the merger parties are active in “related” markets (eg products that are complementary or that belong to a range of products generally purchased by the same set of customers) and their individual share in any such related Affected Market exceeds 30%, describe the impact of the merger on the ability and incentive of the merged entity to foreclose rivals (including partial and/or full foreclosure) post-transaction, either by limiting the supply of inputs or access to customers.	
8.10	Where notifying parties would like the Commission to consider whether or not the merged entity will be subject to constraints from potential entry or expansion, provide a description of the barriers to entry and expansion with respect to the Affected Market(s).	
8.11	<p>If the notifying parties wish the Commission to consider potential entry or expansion in its competitive assessment, notifying parties should provide:</p> <ul style="list-style-type: none"> i. details of any expansion, entry or exit in any of the Affected Markets over the past five years, and ii. details of any companies that the notifying parties believe are likely, post-merger, to enter or expand into any of the Affected Markets in a sufficiently timely manner so as to adequately constrain the merged entity, <p>including, in either case, any available evidence for that submission and contact details for any companies named.</p>	
8.12	Where notifying parties would like the Commission to consider whether or not the merged entity will be subject to countervailing buyer power, explain, with evidence where available, how the merged entity will be subject to this constraint.	
8.13	Where notifying parties would like the Commission specifically to consider at phase 1 any efficiencies or relevant customer benefits that the notifying parties believe will arise from the merger, describe such efficiencies and provide any documents prepared internally or by external consultants that discuss such expected efficiencies or relevant customer benefits.	
8.14	Provide any other information that the notifying parties consider may be relevant to the Commission’s Phase 1 investigation.	
9.	THIRD PARTY CONTACT DETAILS	
9.1	<p>Provide contact details for the relevant competitors and customers of the merger parties for (where applicable):</p> <ul style="list-style-type: none"> i. each of the Affected Markets in which they overlap; 	

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	<ul style="list-style-type: none"> ii. each of the Affected Markets in which the merger parties have a vertical relationship (providing contact details for the relevant competitors and customers of the merger parties in the upstream and downstream markets on which each merger party is active); and iii. each of the Affected Markets in which each of the merger parties provides related products/services. 	
9.2	To the extent applicable, provide contact details for relevant suppliers providing an estimate of the annual value and/or volume of purchases.	
9.3	To the extent applicable, provide contact details for each of the companies that the notifying parties consider are likely to enter and expand into any of the Affected Markets.	
9.4	<p>Provide the name and contact details, including address, and email address and telephone number, of:</p> <ul style="list-style-type: none"> i. any relevant regulatory authorities covering the industry in which the merger parties overlap, have a vertical relationship, or supply related product(s)/service(s). ii. any trade associations which cover the industry in which the merger parties overlap, have a vertical relationship, or supply related product(s)/service(s). 	
9.5	Any other information which the party considers relevant	

10. DECLARATION

This Declaration must be signed by a duly authorised person or on behalf of each of the notifying parties:

I declare that, to the best of my knowledge and belief, the information given in response to the questions in this Notice is true, correct, and complete in all material respects.

I understand that:

It is a criminal offence under section 112 of the Federal Competition and Consumer Protection Act, 2018 for a person knowingly to supply to the Commission information which is false or misleading in any material respect. This includes supplying such information to another person or any officer of the Commission knowing that the information is to be used for the purpose of supplying information to the Commission;

The Commission may reject any Notice if it is discovered that it contains information which is false or misleading in any material respect;

The Commission conducts both Phase 1 and Phase 2 investigations. In the event that the merger is referred for a Phase 2 investigation, information provided to the Commission during the course of the Phase 1 investigation will



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also be used for the Phase 2 investigation; and

The Commission will bring the merger described in this Notice, and the fact that the Notice has been given, as prescribed by the Act.

Signed:

Name: (block letters)

Position: (block letters)

Date:

In addition to the above Declaration, the Declaration below should also be signed by a duly authorised person or on behalf of each of the notifying parties if the undertakings are appointing legal representatives:

I confirm that the representative(s) (if any) named in reply to question 1(b) is/are authorised for the purposes of proceedings related to the arrangements described under question 2 to act on behalf of the merger parties respectively specified in response to question 1(b) of this Form/Guidance Note. I hereby specify the address of the representatives named in reply to question 1(b) as an address at which [name of notifying party] will accept service or take receipt of documents.

Signed:

Name: (block letters)

Position: (block letters)

Date:



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