CAK DECISION ON THE PROPOSED INVESTMENT BY CFAO MOTORS KENYA LIMITED IN KENYA VEHICLE MANUFACTURERS LIMITED

1. The Competition Authority of Kenya has approved the proposed investment by CFAO Motors Kenya Limited in Kenya Vehicle Manufacturers Limited unconditionally.
2. This approval has been granted on the finding that the transaction is unlikely to negatively impact competition in the market **for the assembly and distribution of new motor vehicles**, nor elicit negative public interest concerns - two key considerations during merger analysis.
3. **CFAO Motors Kenya Limited (CFAO Motors)** is incorporated in Kenya. It is involved in the automotive industry. **CFAO Motors**' shareholders are CFAO SAS and Toyota Tsusho Africa (PTY) Limited. CFAO SAS is wholly owned by Toyota Tsusho Corporation, a public company registered in Japan and listed on the Tokyo Stock Exchange. **CFAO Motors**' principal activities are the distribution, retailing, and servicing of new motor vehicle and motorcycle brands and spare parts of motor vehicle brands including Toyota, Suzuki, Hino, Hyundai, Sinotruk, Yamaha, Volkswagen, and Mercedes-Benz. The business also operates a multi-brand franchise for used car business and aftersales services.
4. **Kenya Vehicle Manufacturers Limited (KVM)** is an undertaking incorporated in Kenya. Its shareholders include the Government of Kenya, CMC Holdings Limited, and CFAO Motors Kenya Limited. Its principal activity is the manufacture of Semi Knocked-Down (SKD) passenger vehicles, Completely Knocked-Down (CKD) truck vehicles, bus and truck body fabrication, special vehicle orders, and safari wagon conversions and body repairs.
5. The proposed transaction involves investment by CFAO Motors in KVM through an equity injection into the target by subscription for additional shares. This will result in the dilution of other KVM shareholders to ownership of approximately 2%. Effectively, CFAO Motors will obtain direct control of the target (98% shareholding). The rationale for the transaction, as provided by the parties, is to enable the target to settle its outstanding debts, revamp its operations, including the assembly business.
6. The transaction therefore, qualified as a merger within the meaning of sections 2 and 41 of the Competition Act CAP 504. The Competition Act stipulates that a merger, or takeover, may occur when an undertaking directly or indirectly acquires control over another business within Kenya. This may happen through, among others, purchase/lease of shares, exchange of shares, vertical integration.

7. Further, merging parties whose combined turnover or assets, whichever is higher, is over Ksh. 1 Billion are required to seek the Authority's approval prior to implementing a transaction. The transaction between CFAO Motors and KVM met this threshold for mandatory notification and full analysis as provided in the Competition (General) Rules, 2019.

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

9. The **relevant product market** comprises products/services that are interchangeable or substitutable by the consumer due to their characteristics, prices and/or intended use. Based on this criterion, the relevant product market for the proposed transaction is the market **for the assembly and distribution of new motor vehicles.**

10. Determination of the **relevant geographic market** involves interrogating the area in which merging parties undertake the business and in which competition conditions are sufficiently similar. With regard to the proposed transaction, the parties have customers throughout Kenya. Therefore, the relevant geographic market is **national**.

11. The motor vehicle manufacturing industry in Kenya comprises manufacture of motor vehicle parts, components, bodybuilding (coachwork), and motor vehicle assembly. Players in the value chain have mainly prioritized motor vehicle assembly over the manufacture of parts and components thus opting to import Completely Knocked-Down (CKD) (kits comprising of parts and subassemblies used for assembly of motor vehicles) and Semi Knocked-Down (SKD) (where motor vehicles are partially disassembled in the country of origin and re-assembled in the importing country) units.

12. The market for assembly of motor vehicles in Kenya has five major players in the business of assembling commercial, personal, passenger, and three-wheeler vehicles. They are; Isuzu East Africa (Isuzu), Associated Vehicle Assemblers (AVA), Trans-Africa Motors (TAM), Mobius and KVM.

13. The structure and concentration of the market for the assembly of motor vehicles in Kenya is illustrated below:

Player	Market Share
AVA	41.1%
Isuzu	40.1%
KVM	13.5%
TAM	4.1%

Mobius	0.2%
Total	100%

14. CFAO Motors is involved in the distribution of new motor vehicles across the county. The market shares for the distribution of new motor vehicles is as indicated in the table below:

Player	Average (% market share)
CFAO Motors (including DT Dobie)	30
Isuzu East Africa	44
Mitsubishi	9
TATA	6
Others	11
Total	100

15. One criterion of assessing a merger's impact on competition is the post-merger market share of the undertakings involved in the transaction. Post-merger, the merged entity's market share will not change since the target and the acquirer are not at the same level of production. The acquirer is merely increasing its shareholding in the target, an existing player.

16. Further, the proposed transaction will not affect the structure and concentration of the market for assembling vehicles and distribution of new vehicles**.** The merged entity, with a 13.5% and 30% share of the market respectively, will continue to face competition from the other players. Therefore, the proposed transaction **is unlikely to lead to a substantial lessening of competition in the market for new motor vehicle assembly and distribution in Kenya.**

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

    a) extent to which a proposed merger would impact employment opportunities;

    b) impact on competitiveness of SMEs;

    c) impact on particular industries/sectors; and

d) impact on the ability of national industries to compete in international markets.

18. As per the parties' submissions, this transaction will not elicit negative public interest concerns. Specifically, the acquirer's plan to revive the target by injecting capital will, in the long-term, make it profitable and create more employment opportunities.

19. Further, the parties stated that implementation of best practices by the acquirer seeks to transform the assembly factory in order to give the business a competitive edge in the international market. Further, the merger is not expected to have an impact on access to the market by SMEs.

20. Premised on the above, the Authority approved **the proposed investment by CFAO Motors Kenya Limited in Kenya Vehicle Manufacturers Limited unconditionally.**

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