CAK DECISION ON THE PROPOSED ACQUISITION OF CONTROL OF LIPTON TEAS AND INFUSIONS KENYA PLCBY B COMMODITIES ME (FZE)

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1. The Competition Authority of Kenya has approved the proposed acquisition o**f** 98.56% of the issued share capital of Lipton Teas and Infusions Kenya PLC by B Commodities ME (FZE) unconditionally.

2. The transaction is unlikely to negatively impact competition in the market for production and processing of tea, nor elicit negative public interest concerns, the two key considerations during merger analysis.

3. **B Commodities ME (FZE) (B Commodities)** is an undertaking incorporated in the UAE. It controls LOLC Kenya Microfinance Bank Plc, Browns Plantations Kenya Limited and Browns P1 Limited. It is active in the micro-financial services and in the production and processing of black, green and white tea as well as botanicals (fruits and herbs) in Kenya.

4. **Lipton Teas and Infusions Kenya PLC (Lipton)** is an undertaking incorporated in Kenya and which is involved in the production and processing of tea (black, green and white tea).

5. The proposed transaction involves the acquisition of 98.56% of the issued share capital of Lipton by B Commodities. Post-merger, the acquirer will have direct control over the target and, consequently, over the target group.

6. The transaction, therefore, qualified as a merger within the meaning of sections 2 and 41 of the Competition Act CAP, 504. The 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 approval from the Authority prior to implementing the proposed

transaction. The transaction between B Commodities and Lipton this threshold for mandatory notification and full analysis as provided in the Competition (General) Rules, 2019.

8. B Commodities said the transaction enable it to deploy its record and experience of revitalizing agri-business to expand its tea production capabilities. The divestiture by the target is part of a strategic decision by the Lipton Group to shift its focus from tea growing to brand management in order to provide support to the tea industry with the objective of increasing yields and improving efficiencies in the value chain.

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

10. 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 production and processing of tea.**

11. 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 retail their products nationwide. Therefore, the relevant geographic market is **national**.

12. Data from the Agriculture and Foods Authority indicates that Kenya produces over 450 million kilos of tea annually, earning the country Ksh. 163.3 Billion and KES 22 billion in export earnings and local sales, respectively, in 2022. The industry supports about 5 million people directly and indirectly. Approximately 650,000 tea growers depend on the cash crop.

13. Data available to the Authority indicates that the main players in the market for tea production and processing are Kenya Tea Development Agencies (48.8%), **Lipton (6%)**, **Browns Plantation Kenya (4.7%)**, Eastern Produce Kenya Limited (5.6%), Williamson Tea Kenya Limited (4.3%), Sasini Limited (1.2%), Sotik Tea Company Limited (1.3%), Evergreen Ltd (1.3%), Nandi Tea Estates (1.2%), Karirana Estate Ltd (0.8%), Nyara Tea Estate (0.06%), Valentine Growers Ltd (0.27%), Bawan Holdings Ltd (0.02%), Kibenda Estate (0.08%) and Muguga (0.02%).

14. One criterion of assessing a merger's impact on competition is the post-merger market share of the undertakings involved in the transaction. In the proposed transaction, the acquirer's

market share will increase from 4.7% to 10.7%. In the Authority's view, this increase is unlikely to raise any competition concerns. The merged entity will face competition from the other players controlling 89.3% of the market. Further, the transaction will not affect the structure and concentration of the market for production and processing of tea in Kenya**.** Therefore, the proposed transaction **is unlikely to lead to a substantial lessening of competition in the market for production and processing of tea in Kenya.**

15. 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. In the 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.

16. As per the parties' submissions, this transaction will not elicit negative public interest concerns. Specifically, there will be no employment loss. All the 9,715 employees of Lipton Teas and 405 employees of Limuru Tea will be retained under their current terms at the time of the transaction.

17. Premised on the above, the Authority approved the proposed acquisition of 98.56% of the issued share capital of Lipton Teas and Infusions Kenya PLC by B Commodities ME (FZE) unconditionally.