



## THE PROPOSED ACQUISITION OF 100% OF THE ISSUED SHARE CAPITAL OF AQUAMIST LIMITED BY AQUAPANI LIMITED

1. The Competition Authority of Kenya has approved the acquisition of 100% of the issued share capital of the issued shares in Aquamist Limited by Aquapani Limited.
2. Aquapani Limited (Aquapani), the acquiring undertaking, is newly incorporated in Kenya as a wholly-owned subsidiary of the Menengai Group Limited for the sole purpose of this transaction.
3. Aquamist Limited (Aquamist), the target undertaking, is incorporated in Kenya. Aquamist is involved in the manufacture and distribution of bottled drinking water (still, sparkling water, and flavored), juices and other non-alcoholic drinks.
4. The proposed transaction is an acquisition of the entire issued share capital of Aquamist by Aquapani and therefore it qualified as a merger within the meaning of Section 2 and 41 of the Competition Act No.12 of 2010.
5. The parties' combined turnover for the preceding year (2018) was **over Sh1 billion** and, therefore, the transaction met the threshold for full merger analysis as provided in the **Merger Threshold Guidelines**.
6. The acquirer was incorporated solely for the purpose of the proposed transaction. However, other entities controlled by the shareholders of the acquirer are engaged in various commercial activities, including manufacture of cooking oils, soaps, and wood products, among others. Aquamist is involved in the bottling of drinking water.
7. The parties' activities do not overlap and thus, for the purposes of analyzing the proposed transaction, the product market was considered as the market for bottled water.
8. Drinking water is bottled in various volumes. Further, they are categorized in 4 classes: natural, purified, flavored and carbonated.
9. Field surveys conducted by the Authority during the analysis of this transaction determined that there are over 650 registered water bottlers in Kenya. Some of the products in this market are; Dasani and Keringet, Quencher, Aquaclear, Waba, Grange Park, Aquamist, and Executive.

10. In regard to bottled water for home and office use, the major brands include; Alpine Coolers, Keringet, Aquamist in Nairobi and its environs, and Maisha Drinking Water. The estimated market share of Aquamist in Nairobi is 9% and approximately 4% nationally and that for Maisha Drinking Water managed by Ketepa is 8%.
11. Data from Euromonitor, indicates that Coca Cola's Dasani was the market leader with about 23% as at 2017. Aquamist, Highlands and Quencher.
12. Post-merger, the structure and concentration of the bottled water market is unlikely to change since the acquirer is not in the same market. Additionally, the target's market share is low and will face stiff competition from other market players.
13. It is worth noting that the acquisition is being done jointly with that of Aquaplast Limited. However, the Authority's view is that the transaction is unlikely to raise any vertical concerns since Aquaplast has only one customer (Aquamist), and the production capacity is currently being underutilized. Further, Aquamist will face competition from the other well established players with strong distribution networks.
14. From the foregoing, the proposed transaction is unlikely to lead to a substantial lessening or prevention of competition in the market for bottled water in Kenya.
15. Additionally, the transaction is unlikely to lead to any negative public interest concerns.
16. Public interest concerns during merger analysis include;
  - i. extent to which a proposed merger would impact employment opportunities;
  - ii. impact on competitiveness of small and medium enterprises (SMEs);
  - iii. impact on particular industries/sectors; and
  - iv. impact on the ability of national industries to compete in international markets.
17. Premised on the fact that the transaction is unlikely to raise negative competition or public interest concerns, the Authority approved the proposed acquisition of 100% of the issued shares in Aquamist Limited by Aquapani Limited.