



THE PROPOSED ACQUISITION OF THE FLORICULTURE BUSINESS AND CERTAIN ASSETS OF OSERIAN DEVELOPMENT COMPANY LIMITED BY BOHEMIAN FLOWERS LIMITED.

1. The Competition Authority of Kenya has approved the proposed acquisition of the floriculture business and certain assets of Oserian Development Company Limited by Bohemian Flowers Limited unconditionally.
2. Bohemian Flowers Limited (Bohemian), the acquirer, is a newly incorporated company for purposes of acquiring the target business. It has not commenced commercial operations in Kenya.
3. Oserian Development Company Limited (Oserian), the target, is incorporated in Kenya and is involved in the business of growing, processing, and exporting flowers to international market especially Europe, Asia and the United States of America.
4. The proposed transaction involves the acquisition of the floriculture business and certain assets of Oserian by Bohemian. The transaction therefore qualified as a merger within the meaning of Section 2 and 41 of the Competition Act No. 12 of 2010.
5. The merging parties export nearly 100% of their produce to Europe, Asia and America and, therefore, the Authority did not consider their combined turnover to establish whether the transaction had met the thresholds for mandatory notification. In this case, the Authority considered the value of the merging parties' combined assets.
6. The parties' combined assets for the preceding year was **over Sh1 billion** and, therefore, the transaction met the threshold for mandatory notification and full merger analysis as provided for in the **Competition (General) Rules, 2019**.
7. The acquirer is a newly incorporated company in Kenya for the purposes of the transaction. However, its shareholders own Kongoni River Farm Limited which is involved in the cultivation of flowers for export. The target is involved in the business of growing, processing, and exporting flowers. The parties' activities overlap in the production of flowers for export and therefore the relevant product market is the **market for production of flowers for export**.





8. When determining the relevant geographic market for analyzing the transaction, the Authority took cognizance of the fact that production of flowers has two dimensions – where they are grown and sold. Therefore, the relevant geographic market in terms of production was determined as Kenya, while in terms of sales, the relevant geographic market was determined to be Europe, the main export destination for Kenyan flowers.
9. Some of the main growers and exporters of flowers in Kenya are; AA Growers, Afriflora, Aquila Flowers, Blacktulip, Flamingo Flowers Herbug Roses, Hola Roses, Isinya Roses, Panda Flowers and Batian Flowers, among others.
10. Post-merger, the proposed transaction is unlikely to raise competition concerns since the merged entity’s market share is low. Additionally, the merged entity will face competition from firms growing flowers in Kenya as well as firms in other countries growing flowers for export.
11. During merger analysis, the Authority also considers the impact that a proposed transaction will have on public interest. The public interest concerns considerations 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.
12. During merger analysis, the Authority also considers the financial health of the undertakings and the extent to which the proposed transaction will impact the sustainability of the businesses.
13. In furtherance of this, the Authority assessed the target’s financial statements and noted that the business has consistently recorded losses since 2017. Additionally, the business is currently in a negative equity position. Based on the foregoing, the Authority noted that the proposed transaction is likely to salvage a failing firm.
14. The acquirer has indicated they intend to absorb all the employees if the transaction is approved. Therefore, the Authority is of the view that the proposed transaction will not





have negative effects on employment, but instead salvage livelihoods for over 700 jobs and enhance Kenya’s competitiveness in the market for cut flowers.

15. With regard to enhancing the competitiveness of Small and Medium-sized Enterprises (SMEs), the merging parties have indicated that the transaction is not expected to have any impact on SMEs.

16. **Based on the foregoing, the Authority approved the proposed acquisition of the floriculture business and certain assets of Oserian Development Company Limited by Bohemian Flowers Limited unconditionally.**

