



CAK DECISION ON THE PROPOSED ACQUISITION OF 100% OF THE ISSUED SHARE CAPITAL OF NOVA ACADEMIES TATU CITY PROPERTY LIMITED BY HERI HOLDINGS LIMITED

1. The Competition Authority of Kenya has approved the proposed acquisition of 100% of the issued share capital of Nova Academies Tatu City Property Limited (Nova Academies/Target) by Heri Holdings Limited (Heri Holdings/Target) unconditionally.
2. This approval has been granted based on the finding that the transaction is unlikely to negatively impact competition in the market for commercial property, nor elicit negative public interest concerns - the two key considerations during merger analysis by the Authority.
3. Heri Holdings, is a private limited liability company incorporated in Kenya. As an investment and management company, Heri Holdings owns, finances, develops, and leases hospitality and commercial office real estate assets across the country.
4. Nova Academies is a private limited liability company incorporated in Kenya. It leases the properties to Nova Pioneer Kenya Limited, a private school operator providing secondary education across Kenya through seven institutions. The schools are; Nova Pioneer Tatu City International, Nova Pioneer Athi River, Nova Pioneer Tatu City Primary, Nova Pioneer Tatu City Boys, Nova Pioneer Tatu City Girls, Nova Pioneer Eldoret Boys and Nova Pioneer Eldoret Girls.
5. The proposed transaction involves the acquisition of 100% of the issued share capital and loans of Nova Academies by Heri Holdings.
6. The transaction therefore, qualified as a merger within the meaning of sections 2 and 41 of the Competition Act No. 12 of 2010. 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, or 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 Heri Holdings and Nova Academies 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, 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 commercial property**.
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 real estate properties are located in the counties of Nairobi and Kiambu. Therefore, the Authority determined the relevant geographic market is the counties of **Nairobi and Kiambu**.
11. **It is worth noting that the proposed transaction only involves some assets of the school (buildings, land and related infrastructure). The school shall continue to operate normally with no transfer of its programs, brand and related assets such as students, teachers and other employees.**
12. Real estate and construction sectors grew by 5.2% and 3.1%, respectively, in Q1 2023, representing a 2.9% and 2.4% year-on-year growth, according to a report by Cytonn Investments. The report attributes this growth to increased property transaction volumes in the market coupled with the higher construction and expansion activities.
13. Some of the property development entities with a presence in Nairobi and Kiambu counties include; Hass Consult, Knight Frank, AMS Properties, Jumia Housing, Lloyd Masika, Cytonn, Cordison International Kenya Limited, Kenwind Holdings Limited, Elicio International, Kwacha Group of Companies Limited, Buttson Complex, Karuna Holdings, Magana Holdings Limited, Safari Park Holdings Limited, Anchor Holdings Limited, Al-Haq Holdings Limited, Canaan East Company Limited, Erro Holdings Limited, Majestic Limited and Neighbors Holdings Limited among others.

14. One criteria of assessing a merger's impact on competition is the post-merger market share of the undertakings involved in the transaction. With regard to the proposed merger, the merged entity will have an insignificant market share in the market for commercial property based on the fact that the target only owns three properties in Tatu City, while the acquirer owns two properties in Nairobi. Based on the available total supply in the market, the transacting parties will face competition from other players controlling a larger market share and visibility. Premised on this, **the proposed transaction is unlikely to lead to a substantial lessening of competition in the market for commercial property in the counties of Nairobi and Kiambu.**
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 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.
16. As per the parties' submissions, this transaction will not elicit negative public interest concerns since the target has no employees and it is not actively trading or an operational entity.
17. Premised on the above, the Authority approved the proposed acquisition of 100% of the issued share capital of Nova Academies Tatu City Property Limited by Heri Holdings Limited unconditionally.