

LEGAL ALERT

MOZAMBIQUE

FIRST INFRINGEMENT DECISIONS OF THE COMPETITION REGULATORY AUTHORITY

The Competition Regulatory Authority of Mozambique (CRA) became operational early in 2021 and has since been receiving regular merger notifications. However, there was no public knowledge of antitrust investigations initiated by the CRA until the last few days, when the CRA announced its first two infringement decisions.

In its first decision the CRA imposed a fine of 41.1 million meticaís on CFAO Motors Moçambique, Lda., for having implemented the acquisition of Auto Avenida Lda. and certain assets of Toyota Moçambique and Toyota Maputo, a transaction subject to mandatory filing, without filing and waiting for the CRA's clearance.¹ Law no. 10/2013, of 11 April (Competition Law) establishes a stand-still obligation for transactions subject to mandatory filing, which can only be implemented after the express or tacit approval from the CRA. The violation of the stand-still obligation constitutes an infraction punishable by a fine of up to 5% of the annual turnover of the infringing companies.

The second decision concerns the condemnation of the Associação das Escolas de Condução de Moçambique (AECOMO) for fixing the prices of driving lessons that would be practiced by driving schools from March 1, 2022,² in breach of Article 17 of the Competition Law, which prohibits agreements and decisions of associations of undertakings directly or indirectly fixing prices. The

¹ Notice no. 02/ARC/2022, published in the 18 July 2022, edition of newspaper *Notícias*.

² Notice no. 03/ARC/2022, published in the 26 July 2022, edition of newspaper *Notícias*.

CRA found this to be a prohibited horizontal agreement and imposed an interim measure under Article 42 of the Competition Law, ordering the immediate suspension of the said prices. However, in the final decision the CRA chose not to apply any fine, and addressed only an admonition to AEMOCO, stating that the prices in question had not been implemented and the Association cooperated with the CRA during the administrative procedure. The CRA nevertheless expressly warned the Association to refrain from further anticompetitive practices under penalty of incurring severe sanctions. Prohibited horizontal agreements are punishable by a fine of up to 5% of the infringing companies' annual turnover.

These two decisions, adopted less than two years after the CRA came into operation, show that the Authority intends to be proactive, not only in reviewing mergers subject to mandatory filing, but also in enforcing the substantive prohibitions of the Competition Law, notably gun-jumping in mergers subject to mandatory filing as well as collusive and unilateral anticompetitive conduct.

In view of the potentially very high fines and other serious negative consequences resulting from the infringement of competition law, companies operating in Mozambique are well advised to actively monitor their business activities and strategic decisions and ensure that they are compliant with competition law.

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