

FORM 1

(Under Regulation 12(1))

DEMAND FOR NOTIFICATION OF MERGER AND ACQUISITION

DATE:

To:

The Eswatini Competition Commission (ESCC) is a statutory body corporate established by section 6 of the Competition Act No. 8 of 2007 to monitor, regulate, control and prevent acts or behaviours which are likely to adversely affect competition in the country.

In terms of section 35(1) of the Act, a person who, in the absence of authority from the Commission whether as a principal or agent and whether himself/herself or his/her agent, participates in effecting –

- a) a merger between two or more independent enterprises engaged in manufacturing or distributing substantially similar goods or providing substantially similar services;
- b) a takeover of one or more such enterprises by another enterprise, or by a person who controls another such enterprise,

commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand Emalangeni or to imprisonment to a term not exceeding five years or to both.

35(2) A merger or takeover made in contravention of subsection 35(1) shall not have any legal effect and no rights or obligations imposed on the participating parties, by any agreement in respect of the merger or takeover, shall be legally enforceable unless an application for condonation has been made to and granted by the Commission.

The Commission has reason to believe that [INSERT ENTITY NAME HERE] has or shall be engaging in a transaction or conduct described in section 35.

The Commission hereby calls upon you to submit within 30 days to the Commission all and/or any relevant documentation concerning the transaction envisaged by section 35.

If no such transaction has been concluded or entered into, you are to submit to the Commission an affidavit that the parties have not entered into any merger or acquisition with the other party.

Issued by:

CHIEF EXECUTIVE OFFICER

