CAK DECISION ON THE PROPOSED ACQUISITION OF SOLE CONTROL OF MORGAN AIR AND SEA FREIGHT LOGISTICS KENYA LIMITED BY KUENHE + NAGEL (KENYA) LIMITED.

1. The Competition Authority of Kenya has approved the proposed acquisition of sole control of Morgan Air and Sea Freight Logistics Kenya Limited by Kuenhe + Nagel (Kenya) Limited unconditionally.
2. This approval has been granted based on the two key considerations during merger analysis that; first, the transaction is unlikely to negatively impact competition in the market for air freight forwarding of perishable goods; and second, the transaction will not elicit negative public interest concerns.
3. Kuenhe + Nagel (Kenya) Limited, a company incorporated in Kenya, is a logistics partner providing end-to-end logistics solutions; including seafreight, airfreight, road & rail logistics and contract logistics.
4. The main commercial activities of Morgan Air Limited (Morgan Logistics), a company incorporated in Kenya, are handling, transportation and delivery of perishables, mainly flowers, fruit, and vegetables by aircraft.
5. The proposed transaction involves acquisition of the entire share capital of Morgan Logistics. The transaction, therefore, qualified as a merger pursuant to 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, and vertical integration.
6. Further, merging parties whose combined turnover or assets, whichever is higher, is over Ksh. 1 Billion are required to seek approval from the Authority before implementing the proposed transaction. The transaction between Morgan Air Limited (Morgan Logistics) and Kuenhe + Nagel (Kenya) Limited met this threshold for mandatory notification to the Authority and full analysis as provided in the Competition (General) Rules, 2019.
7. During merger analysis, and in order to determine the impact that a transaction will have on competition, the Authority identifies the **relevant product market** and the **relevant geographic market.**

8. The **relevant product market** comprises products/services that are interchangeable or substitutable by the consumer due to their characteristics, prices and/or intended use. The acquirer and the target supply and procure air freight forwarding services from each other and therefore the proposed transaction results in an overlap in the air freight forwarding services that is considered to be substitutable. Based on this criterion, the relevant product market for the proposed transaction is the **market for air freight forwarding of perishable goods**.

9. 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, air freight forwarding services which include handling, transportation, and delivery are available across the country by both the acquirer and the target. Therefore, the relevant geographic market is **national.**

10. Air freight is a highly diversified business based on its physical characteristics and value. Cargo originates and is transported to various destinations across the World. The cargo can be handled along the supply chain by either;

    i. A combination carrier -passenger airlines that use a portion of their "belly-hold" to carry cargo;
    ii. An express carrier operating their own fleet of aircraft and delivery vehicles providing door-to-door services; or
    iii. A number of entities with varying responsibilities including aircraft operators, express carriers, postal operators, regulated agents, consignors, consignees, hauliers and ground handlers.

11. Globally, the air freight forwarding market is highly competitive and contributes 0.16% of global food/perishables transportation. Perishables account for 15% of the total transportation. This market is concentrated with the presence of large international express carrier service providers that are segmented based on services, destination, end-to-use and region.

12. The world's leading major players in this market, based on volumes, include DHL Supply Chain & Global Forwarding, Kuenhe + Nagel, DB Schenker Logistics, DSV Panalpina, UPS Supply Chain Solutions, Expeditors International, Nippon Express, Bollore Logistics, Hellmann Worldwide Logistics and Kintetsu World Express.

13. In Kenya, there are more than 1,500 freight sea and air freight forwarders registered with the Kenya International Freight and Warehousing Association. Data from the Kenya Airports Authority indicates that the major market players in this market are Acceler (K) Ltd, Siginon,

Mechanised freight; Kuehne + Nagel, Freight Wings Ltd, DSV Panalpina, Freight In Time, Liftcargo, Perseus Forwarders, and Freight Forwarders Kenya.

14. The market shares of the leading firms is provided below:

Market Player	Market Share (%)
Kuenhe + Nagel (Acquirer)	19.1
Panalpina AirFlo Limited	17.2
Siginon Freight	7.5
Freight Wings	6.49
Freight In Time	5.37
Lift Cargo	3.59
Morgan Air (Target)	2.89
Others	37.86
Total	100

15. Post transaction, the merging parties will control a combined market share of 21.99%. Further, they will continue facing competition from the other market players controlling a combined market share of 78.01%.

16. One criterion for assessing impact of a merger transaction on competition is the post-merger market share of the undertakings, the merged entity. With regard to the proposed merger, the transaction is not expected to raise competition concerns post-merger since the parties will control a combined market share of 21.99%, and will face competition from the other market players controlling a combined market share of 78.01%. Premised on this, **the proposed transaction is unlikely to lead to a substantial lessening or prevention of competition in the market for air freight forwarding of perishable goods in Kenya.**

17. During merger analysis, the Authority also considers the impact that a proposed transaction will have on public interest. In this case, public interest 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) the 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.

18. As per the parties' submissions, this transaction will not elicit negative public interest concerns, specifically, regarding employment. The target 's one hundred and twenty-nine (129) employees will be retained under the same current terms of employement.

19. Premised on the above, the Authority approved the proposed acquisition of sole control of Morgan Air and Seafreight Logistics Kenya Limited by Kuenhe + Nagel (Kenya) Limited unconditionally.

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