

NIGERIA

Law and Practice

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Streamsowers & Köhn



Contents

1. Legislation and Enforcing Authorities p.453

- 1.1 Merger Control Legislation p.453
- 1.2 Legislation Relating to Particular Sectors p.453
- 1.3 Enforcement Authorities p.453

2. Jurisdiction p.454

- 2.1 Notification p.454
- 2.2 Failure to Notify p.454
- 2.3 Types of Transactions p.455
- 2.4 Definition of "Control" p.455
- 2.5 Jurisdictional Thresholds p.456
- 2.6 Calculations of Jurisdictional Thresholds p.456
- 2.7 Businesses/Corporate Entities Relevant for the Calculation of Jurisdictional Thresholds p.456
- 2.8 Foreign-to-Foreign Transactions p.456
- 2.9 Market Share Jurisdictional Threshold p.456
- 2.10 Joint Ventures p.456
- 2.11 Power of Authorities to Investigate a Transaction p.457
- 2.12 Requirement for Clearance Before Implementation p.457
- 2.13 Penalties for the Implementation of a Transaction Before Clearance p.457
- 2.14 Exceptions to Suspensive Effect p.458
- 2.15 Circumstances Where Implementation Before Clearance Is Permitted p.458

3. Procedure: Notification to Clearance p.458

- 3.1 Deadlines for Notification p.458
- 3.2 Type of Agreement Required Prior to Notification p.458
- 3.3 Filing Fees p.458
- 3.4 Parties Responsible for Filing p.459
- 3.5 Information Included in a Filing p.459
- 3.6 Penalties/Consequences of Incomplete or Inaccurate Notification p.459
- 3.7 Review Process p.460
- 3.8 Pre-Notification Discussions With Authorities p.460
- 3.9 Requests for Information During the Review Process p.460
- 3.10 Accelerated Procedure p.460

4. Substance of the Review p.461

- 4.1 Substantive Test p.461
- 4.2 Markets Affected by a Transaction p.461
- 4.3 Reliance on Case Law p.461
- 4.4 Competition Concerns p.461
- 4.5 Economic Efficiencies p.462
- 4.6 Non-Competition Issues p.462
- 4.7 Special Consideration for Joint Ventures p.462

5. Decision: Prohibitions and Remedies p.462

- 5.1 Authorities' Ability to Prohibit or Interfere With Transactions p.462
- 5.2 Parties' Ability to Negotiate Remedies p.463
- 5.3 Legal Standard p.463
- 5.4 Negotiating Remedies With Authorities p.463
- 5.5 Conditions and Timing for Divestitures p.464
- 5.6 Issuance of Decisions p.464
- 5.7 Prohibitions and Remedies for Foreign-to-Foreign Transactions p.464

6. Ancillary Restraints and Related Transactions p.464

- 6.1 Clearance Decisions and Separate Notifications p.464

7. Third-Party Rights, Confidentiality and Cross-Border Co-Operation p.465

- 7.1 Third-Party Rights p.465
- 7.2 Contacting Third Parties p.465
- 7.3 Confidentiality p.465
- 7.4 Co-Operation With Other Jurisdictions p.465

8. Appeals and Judicial Review p.466

- 8.1 Access to Appeal and Judicial Review p.466
- 8.2 Typical Timeline for Appeals p.466
- 8.3 Ability of Third Parties to Appeal Clearance Decisions p.466

9. Foreign Direct Investment/Subsidies Review p.466

- 9.1 Legislation and Filing Requirements p.466

Streamsowers & Köhn is a full-service law firm in Nigeria, with offices in Lagos, Abuja and Port Harcourt. Its team comprises six partners, including three Senior Advocates of Nigeria (equivalent to a King's Counsel in the UK), as well as more than 20 associates. Since the enactment of the Federal Competition and Consumer Protection Act (FCCPA) in 2018, the firm's competition law practice has advised a broad range of clients across multiple sectors in all areas of competition law. Representative work includes ad-

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1. Legislation and Enforcing Authorities

1.1 Merger Control Legislation

The Federal Competition and Consumer Protection Act 2018 (FCCPA), enacted in 2019, governs merger review and approval in Nigeria.

The Banks and Other Financial Institutions Act 2020 (BOFIA) was enacted in 2020. Section 65 (1) stripped the Federal Competition and Consumer Protection Commission (FCCPC or the Commission) of its competition powers with regard to the financial services sector, which is under the regulatory supervision of the Central Bank of Nigeria (CBN), the financial services regulator. Section 65 (3) further assigned the competition regulation powers of the FCCPC to the CBN, thereby subjecting mergers in the financial services sector to the CBN's regulatory scrutiny.

In the communications sector, Section 90 of the Nigerian Communications Act 2003 confers broad competition oversight powers on the Nigerian Communications Commission (NCC, the sector-specific regulator for the Nigerian communications sector), authorising it to determine, administer, monitor, and enforce compliance with both general and sector-specific competition laws as they apply to the Nigerian communications market. Pursuant to this mandate, the NCC enacted the Competition Practices Regulations 2007 (the CPR) through administrative rule-making.

Regulation 26 of the CPR expressly empowers NCC to review all mergers, acquisitions, and takeovers within the communications sector. This sector-specific merger review jurisdiction is exercised concurrently

with the FCCPC, reflecting a dual regulatory framework for merger control in Nigeria's communications industry.

1.2 Legislation Relating to Particular Sectors

In exercising its rule-making power under the FCCPA, the FCCPC issued the Guidelines on Simplified Process for Foreign-to-Foreign Mergers with Nigerian Component (the "Foreign-to-Foreign Merger Guidelines"). These guidelines outline, among other things, the procedure for notifying a foreign-to-foreign merger with a Nigerian component to the FCCPC and the calculation of applicable notification fees.

In terms of foreign investment, the Nigerian Investment Promotion Commission Act provides that a foreign national can own up to 100% of a business or invest in any business except those on the negative list. Prohibited activities include:

- the production of arms, ammunition, etc;
- the production of and dealing in narcotic drugs and psychotropic substances;
- the production of military and paramilitary wear and accoutrements, including those of the police and the customs, immigration and prison services; and
- other similar activities, determined by the Federal Executive Council.

1.3 Enforcement Authorities

The FCCPC is Nigeria's lead competition authority responsible for enforcing the FCCPA. In its review of mergers involving parties that are also subject to regulatory oversight of other sector-specific regulators, the

FCCPC typically requires a letter of no objection from the relevant regulator before granting unconditional approval for the transaction.

An exception applies to the financial services sector. Pursuant to the provisions of BOFIA, CBN has been vested with primary regulatory authority over competition and consumer protection matters within the financial services sector, including the review and approval of mergers involving financial institutions and other regulated financial service providers. Notwithstanding this statutory framework, the scope and exclusivity of the CBN's mandate continue to generate regulatory and judicial debate, particularly following the decision of the Federal High Court in *United Bank of Africa Plc v FCCPC* (Unreported - FHC/ABJ/CS/1972/2025), where the court affirmed the powers of the FCCPC to investigate and enforce consumer protection matters within the financial services sector.

However, the precise implications of the decision remain unsettled, particularly as regards whether the court's reasoning extends beyond consumer protection to encompass competition law enforcement and, by extension, merger control and review within the financial services industry. Given that the jurisprudence in this area is still developing and may ultimately be clarified through appellate adjudication or legislative refinement, the extent of the FCCPC's continuing jurisdiction in competition and consumer protection matters within the financial services sector has yet to be conclusively determined.

2. Jurisdiction

2.1 Notification

Notification to the FCCPC is only required if the merger meets the jurisdictional threshold for notification. Under the FCCPA, a merger becomes notifiable to the FCCPC if it meets the criteria specified as constituting a relevant merger situation. According to paragraph 2.3 of the Merger Review Guidelines (MRG) issued by the FCCPC, a relevant merger situation is created where the following cumulative criteria are met:

- two or more undertakings must come under common control, or there must be arrangements in

progress or in contemplation which, if carried into effect, will lead to the undertakings coming under a common control to be distinct; and

- either the Nigerian turnover in the preceding year of the undertaking that is being acquired exceeds the prescribed threshold or the combined value of the Nigerian element of the merging undertakings in the preceding year exceeds the prescribed threshold (known as the “turnover test”), as stipulated in the Notice of Threshold for Merger Notification 2019 (Threshold Regulations) issued by the FCCPC.

If the FCCPC believes that the first criterion has not been met, it will not consider the second criterion, as a relevant merger situation is not created. In addition, where a Nigerian undertaking comes under the control of a foreign undertaking, the merger may be subject to notification if the turnover test under the Threshold Regulations is met or if the acquisition of the Nigerian undertaking affects the market structure by preventing or lessening competition in Nigeria.

The standard used by the FCCPC to assess the jurisdictional threshold for mergers in the financial services sector is likely to be the same as the standard applied by the CBN when determining whether a relevant merger situation exists. In the communications sector, the following types of qualifying merger transactions are notifiable to NCC:

- the acquisition of more than 10% of the shares of a communications licensee;
- a transaction that results in a change of control of a communications licensee; and
- a direct or indirect transfer or acquisition of an individual communications licence.

2.2 Failure to Notify

Notifying a qualifying merger transaction is a legal requirement under Section 96 (7) of the FCCPA. Failing to do so is considered an offence and may result in a fine of up to 10% of the parties' turnover from the business year prior to the offence. The court may also determine a different percentage based on the case's specific circumstances.

In the communications sector, a failure to obtain the written consent of the NCC when transferring or assigning a communications licence is an offence under the Nigerian Communications (Enforcement Processes, etc) Regulations 2019. Convicted offenders are liable to a fine of NGN10 million and a further NGN500,000 per day, calculated from the effective date of the transfer or assignment as determined by the NCC and payable for as long as the contravention persists.

The NCC may impose a maximum lump sum fee of NGN2 million on licensees with a turnover of less than NGN1 billion. Where a joint venture or change in shareholding structure in a communications licensee is implemented without first obtaining the consent of the NCC, the offending licensees are liable to a fine of NGN5 million and a further NGN500,000 per day, calculated from the effective date of the joint venture arrangement or change in shareholding structure, as determined by the NCC, and payable for as long as the contravention persists.

However, the NCC normally publishes details of its enforcement activities regarding a failure to notify a qualifying merger in the communications sector. As far as is known, the FCCPC has not applied such a penalty in practice or made it public in any case.

2.3 Types of Transactions

Paragraph 2.6 of the MRG states that the following transactions are subject to a merger review.

- Acquisitions of property within Nigeria are covered by virtue of Section 92 (1) of the FCCPA, including (but not limited to):
 - (a) shares in Nigerian companies, wherever the transaction is entered into, as the shares are domestically situated;
 - (b) domestic businesses;
 - (c) local intellectual property such as trade marks, patents and copyright; and
 - (d) local plant and equipment.
- Acquisitions of property, wherever situated, are covered by virtue of Sections 92 (1) and 2 (1)-(3) of the FCCPA if the acquirer:
 - (a) is incorporated in Nigeria;
 - (b) carries on business in Nigeria;

- (c) is a Nigerian citizen; or
- (d) is ordinarily resident in Nigeria.

If the above points do not apply, acquisitions of a controlling interest (presumably shares in almost all cases) in a corporate body where that body has a controlling interest in a corporation are covered by Section 92 (1) of the FCCPA.

According to the FCCPC, an internal restructuring within a group of companies does not constitute a relevant merger situation and is thus exempt from notification because it does not lead to control by an external party.

In the communications sector, the following transactions are caught:

- the acquisition of more than 10% of the shares of a communications licensee;
- a transaction that results in a change of control of a communications licensee; and
- a direct or indirect transfer or acquisition of an individual communications licence.

2.4 Definition of “Control”

Neither the FCCPA nor the FCCPC defines what constitutes control for merger notification purposes. However, Section 92 (2) of the FCCPA provides a list of situations where an undertaking may be determined to exercise control over the business of another undertaking. These situations are where an undertaking:

- beneficially owns more than one-half of the issued share capital or assets of another undertaking;
- is entitled to cast the majority of votes that may be cast at a general meeting of the company or can control the voting of the majority of those votes;
- is able to appoint or veto the appointment of a majority of the directors of the undertaking;
- is a holding company, and the company is a subsidiary of that company as contemplated under the Companies and Allied Matters Act;
- in the case of an undertaking that is a trust, has the ability to control the majority of votes of the trustees, to appoint the majority of the trustees or can
- materially influence the policy of the company in a manner comparable to a person who, in ordinary

commercial practice, can exercise the element of control referred to in the above points.

According to Section 92 (3) of the FCCPA, control does not exist in either of the following circumstances:

- credit institutions or other financial institutions or insurance companies acquiring securities of an undertaking in the ordinary course of business on a transitory basis or where the company is raising capital, provided they do not exercise voting rights to determine the competitive behaviour of the undertaking and they dispose of the securities within one year of acquisition; and
- control acquired under the law relating to liquidation, winding up, insolvency, cessation of payments, compositions or analogous proceedings.

In addition, as explained in **2.1 Notification**, control is only one of the criteria used to assess whether a merger is notifiable to the FCCPC; the other is the turnover threshold. If these two criteria are met, then a merger is caught and must be notified to the FCCPC.

2.5 Jurisdictional Thresholds

See **2.1 Notification**.

2.6 Calculations of Jurisdictional Thresholds

The jurisdictional threshold necessary to trigger a merger review involves two cumulative criteria that must be met in every case: the control element and the turnover test. Only the turnover test involves calculations which must be done in accordance with the Threshold Regulations. Pursuant to paragraph 1.1 of the Threshold Regulations, the turnover test is met if, in the financial year preceding the merger:

- the combined annual turnover of the acquiring undertaking and the target undertaking in, into or from Nigeria equals or exceeds NGN1 billion; or
- the annual turnover of the target undertaking in, into or from Nigeria equals or exceeds NGN500 million.

Where the applicable turnover is in a foreign currency, the FCCPC uses the prevailing exchange rate determined by the CBN at the end of the financial year preceding the notification or the date on which the

contract creating the merger came into force, whichever is later.

2.7 Businesses/Corporate Entities Relevant for the Calculation of Jurisdictional Thresholds

The businesses or corporate entities that have generated turnover attributable to a business or derived from Nigeria are relevant for calculating the turnover. In addition, as explained in **2.6 Calculations of Jurisdictional Thresholds**, turnover may be calculated on the basis of the combined annual turnover of the acquiring undertaking and the target undertaking or based on the annual turnover of only the target undertaking.

Turnover may also be calculated group-wide, provided it is attributable to and/or derived from Nigeria. According to the FCCPC's practice, "group-wide" refers to an undertaking in which any of the merger parties has a controlling interest. Lastly, the FCCPC does not prescribe a particular procedure for changes in the business during the reference period; however, it is conceivable that discussions in this regard may be had with the FCCPC as part of the pre-notification consultation.

2.8 Foreign-to-Foreign Transactions

Foreign-to-foreign transactions that have a local component are subject to merger control. According to the FCCPC, a local component exists if a foreign entity has a local nexus, such as having subsidiaries in Nigeria, or if it satisfies the turnover test provided in the Threshold Regulations. When the target undertaking has no subsidiaries, sales, or assets in Nigeria, no turnover has been generated, and therefore, notification to the FCCPC is not required.

2.9 Market Share Jurisdictional Threshold

No market share jurisdictional threshold applies in Nigeria at the time of writing.

2.10 Joint Ventures

As a general rule, any joint venture must meet the following basic criteria to qualify for a merger review:

- economic integration of the parties' business activities (for example, through a contribution of productive assets to a new business undertaking);

- elimination of competition between the parties in the joint venture's field of activity through this contribution; and
- the relative permanence of the joint business activity.

Where these basic criteria are met, the joint venture will be brought within the general scope of merger review if its creation typically involves the transfer of voting equity or assets and by reference to the underlying combination of previously independent businesses.

In addition, a full-function joint venture must be notified to the FCCPC if the value of its assets or turnover exceeds the turnover threshold. A full-function joint venture operates on a lasting basis with all the functions of an autonomous economic entity, competes with other undertakings in a relevant market, and has sufficient resources and staff to operate independently in the relevant market.

2.11 Power of Authorities to Investigate a Transaction

Section 95 (3) of the FCCPA authorises the FCCPC to require the parties to a merger that falls below the applicable jurisdictional thresholds to notify the Commission of the merger transaction in the prescribed manner and form. This power may be exercised where the FCCPC is of the opinion that the merger may substantially prevent or lessen competition. The FCCPC must exercise this power within six months from the date the merger is implemented.

2.12 Requirement for Clearance Before Implementation

According to Section 93 (1) of the FCCPA, a proposed merger shall not be implemented unless it is first notified to and approved by the FCCPC. Specifically, Regulation 13 (2) of the Merger Review Regulations 2020 (MRR) requires the merging parties to ensure that they take no steps and undertake no activities before and during the notification period that may be deemed co-ordination or integration of their businesses or their competitive conduct in any of the following respects:

- the exchange of commercially sensitive information;

- the nature of contractual clauses governing the relationship; and
- the activities of the parties before and during the notification of the merger.

To do otherwise would increase their risk of engaging in gun-jumping conduct, which could expose them to fines from the FCCPC. Paragraph 3.61 of the MRG cites the following examples of gun-jumping:

- co-ordination between merging parties on prices or terms to be offered to customers for sales prior to closing the merger;
- allocating customers for sales to be made prior to closing; and
- if, prior to closing, merging firms co-ordinate their negotiations with customers for sales to be made after the merger closes (eg, negotiations of long-term contracts).

For mergers that do not meet the jurisdictional threshold for notification, which are notified to the FCCPC post-transaction, the merger parties are not required to take further steps to integrate the respective businesses.

2.13 Penalties for the Implementation of a Transaction Before Clearance

Under the Federal Competition and Consumer Protection Commission (Administrative Penalties) Regulations 2020, the base penalty for gun jumping, ie, implementing a notifiable merger without the FCCPC's approval, is set at 2% of the turnover of the merger parties in the preceding year.

However, the final administrative penalty is determined through a structured methodology that begins with the calculation of a base penalty, which is set at 2% of the annual turnover of the merger parties. This base amount constitutes the starting point for the overall computation and reflects the initial assessment of the infringement. The second step adjusts the base penalty to account for the duration of the violation. This is done by applying a time-related factor, calculated as the proportion of the number of months of non-compliance over a 12-month period, multiplied by the base penalty. The resulting amount, which reflects the additional penalty for the length of the violation, is

added to the base penalty to reflect the continuing nature of the infringement.

In the third step, the cumulative amount derived from the base penalty and the duration adjustment is reviewed against the statutory ceiling. The applicable law imposes a cap of 10% of the annual turnover of the merger parties, which serves as the maximum permissible penalty regardless of the outcome of the calculation. The fourth step introduces an assessment of aggravating and mitigating factors, which are applied to the calculated amount as a net percentage adjustment. This adjustment may either increase or reduce the penalty, depending on considerations such as the seriousness of the infringement, co-operation with the authority, or remedial conduct by the parties. These factors are aggregated into a single percentage modifier and applied to the amount derived from the earlier steps.

Finally, the resulting figure is again tested against the statutory cap of 10% annual turnover and rounded where necessary to ensure compliance with the legal maximum. The final administrative penalty therefore reflects a composite assessment that integrates the base penalty, the duration of the infringement, and the balance of aggravating and mitigating factors, while remaining subject to the statutory ceiling of 10%.

The FCCPC has consistently reiterated its commitment to sanctioning parties that implement notifiable mergers without obtaining prior regulatory approval. Most recently, in April 2026, the FCCPC issued a public notice warning undertakings against non-compliance with applicable merger control requirements and transaction approval processes. Notwithstanding these regulatory pronouncements, there is, to date, no publicly available record of administrative penalties or enforcement sanctions having been imposed on undertakings domiciled in Nigeria for gun-jumping violations.

Similarly, there have been no publicly disclosed enforcement actions or sanctions in relation to foreign-to-foreign mergers with a Nigerian nexus. While this may suggest a measured or evolving enforcement posture, it should not be interpreted as diminishing the FCCPC's statutory powers or its stated intention

to strengthen merger control compliance and enforcement oversight within the Nigerian competition law framework.

2.14 Exceptions to Suspensive Effect

At the time of writing (May 2026), there are no general exceptions to the obligation not to implement a qualifying merger without first seeking and obtaining the approval of the FCCPC and/or the NCC.

2.15 Circumstances Where Implementation Before Clearance Is Permitted

Global transactions may be implemented without seeking prior approval from the FCCPC in circumstances where there is no local component, and the jurisdictional threshold is not met.

3. Procedure: Notification to Clearance

3.1 Deadlines for Notification

There is no specific deadline for notification. The FCCPA requires that the FCCPC's approval be sought and obtained before a qualifying merger is implemented.

3.2 Type of Agreement Required Prior to Notification

As part of the merger review process, the FCCPC requires the submission of all documents that form the basis of the merger transaction. These may include heads of terms, memoranda of understanding, sale and purchase agreements, business transfer agreements, or any similar documents.

Where transaction documents have not been finalised, the most recent draft(s) must be submitted, accompanied by regular updates reflecting any subsequent revisions. It is imperative that the notifying parties keep the FCCPC fully informed of all material changes to the transaction documentation throughout the review process.

3.3 Filing Fees

Filing fees are payable for merger notifications. The applicable fee is determined by a percentage of either the consideration sum payable for the transaction or

the combined turnover of the merging companies in the preceding financial year (whichever is higher).

The applicable percentages are:

- 0.45% of the first NGN500 million;
- 0.45% of the next NGN500 million; and
- 0.35% of any sum thereafter.

The relevant turnover for calculating the applicable fees for mergers involving foreign entities with a local component is the turnover based on or attributable to the business of or in the local component in Nigeria.

There are no deadlines for payments, but a merger notification will not be considered satisfactory if no payments are made.

3.4 Parties Responsible for Filing

The primary acquiring undertaking and the primary target undertaking, collectively referred to as the merger parties, are responsible for filing the merger application at the FCCPC, although it is common for such organisations to instruct local counsel to make such filings and notifications on their behalf.

3.5 Information Included in a Filing

The FCCPC requires the submission of copies of specific internal documents prepared or received by any member(s) of the board of management, board of directors, supervisory board or shareholders' meeting, or other individuals with similar functions or to whom such functions have been delegated or entrusted. Such documents include minutes of meetings where the transaction was discussed and reports, surveys, studies, presentations and related documents that assess or analyse the merger in terms of its rationale, potential for sales growth, market shares, competitive conditions, competitors (actual and potential), expansion into other markets, and general market conditions.

Analyses, reports, studies, surveys and related documents from the last two years that assess the affected market(s) – including market shares, competitors (actual and potential), competitive conditions and potential for sales growth or expansion into other markets – should also be submitted. In the case of a full

merger, the most recent business plan of both merging parties should be included.

Lastly, the FCCPC requires the information provided to be comprehensive, factual, detailed and translated into English (Nigeria's official language) before submission.

3.6 Penalties/Consequences of Incomplete or Inaccurate Notification

The FCCPA does not impose penalties for submitting an incomplete merger notification; however, the FCCPC will treat such submissions as deficient and decline to treat the filing as complete for the purposes of commencing or continuing its substantive review. In such circumstances, the applicable review timelines may be suspended or remain in abeyance pending the submission of all required information, documents, and supporting materials necessary for the FCCPC's assessment of the transaction.

The FCCPC can revoke its decision to approve or may conditionally approve a merger where the application was based on incorrect information supplied by the merging parties, subject to the provisions of Section 99 1 (a) of the FCCPA. It can also prohibit the merger in its entirety.

Subject to Section 112 of the FCCPA, an undertaking that gives the FCCPC or an authorised officer of the FCCPC any information that the undertaking knows to be false or misleading commits an offence, leading to the following penalties:

- where the undertaking is a natural person: liability on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding NGN10 million, or both; and
- where the undertaking is a body corporate: liability on conviction to a fine not exceeding 10% of its turnover in the preceding business year, and each director of the entity is liable to be proceeded against and, on conviction, dealt with as a natural person.

In addition, the appointed legal representative of a merger party is required to submit a sworn declaration attesting that the information provided in the

notification is true and accurate to the best of their knowledge. Any false or misleading declaration may expose the representative to prosecution for perjury under applicable law.

3.7 Review Process

Subject to the provisions of the MRG and Section 95 of the FCCPA, the merger review consists of two phases. For small mergers, the FCCPA requires the FCCPC's review to be concluded within 20 business days (extendable by 40 days) of satisfactory merger notification. The period may be extended by up to an additional 15 business days if the merger raises initial competition concerns and the parties propose acceptable remedies, but the need for a Phase Two review is not anticipated.

For large mergers, Section 97 of the FCCPA limits the period of review to 60 business days, which is extendable by an additional 60 business days. This period may be extended by up to a further 30 business days if the merger raises initial competition concerns, but the need for a Phase Two review is not expected. For most cases where no material competition concerns arise, the FCCPC will seek to complete the first detailed review within 45 business days. Generally, a Phase One review will conclude within the statutory timeframes. Under Regulation 19 of the MRR, the FCCPC utilises the statutory extensions in two ways:

- first, to fulfil the proposed remedies' objective, where they are acceptable; and
- second, to undertake the Phase Two review.

3.8 Pre-Notification Discussions With Authorities

The MRG suggest that the pre-notification phase of a merger review is crucial, and the FCCPC encourages merging parties to discuss a proposed merger informally and confidentially before submitting a notification, typically at least two weeks before the submission of a formal notification is contemplated. This allows both the FCCPC and the merging parties to discuss legal issues, prepare for investigations and identify potential competition concerns early on.

Consultations with the FCCPC may be conducted in person, by telephone, via videoconference, through

other digital platforms, or by any other means deemed appropriate by the Commission. These consultations are intended to clarify jurisdictional issues as well as substantive and procedural matters. They may be scheduled through the FCCPC's merger notification portal and, for confidentiality purposes, can be held on a "no-names" basis. However, consultations are generally more effective and offer clearer guidance to merging parties when the Commission is provided with complete and accurate information.

3.9 Requests for Information During the Review Process

During the review process or while conducting its investigation, the FCCPC may undertake market testing of the notified transaction and request additional information from the notifying parties to enable it to proceed or conclude with its review.

Such requests effectively suspend the review pending their resolution.

3.10 Accelerated Procedure

Form 2 (Notice of Merger Simplified Procedure) allows for a simplified procedure if the merger parties assess the proposed merger and believe that the transaction is unlikely to impede market competition.

Paragraph 21 (3) of the MRR empowers the FCCPC to approve a fast-track process for merger notifications upon request by the parties. This expedited process reduces the timeline for all relevant steps during the initial review by 40% unless a different timeframe is specified in the applicable notice. It is important to note that this reduction applies only where the FCCPC has not already published a specific review period and is subject to any issues that may arise during the prescribed review period.

For foreign-to-foreign mergers with a Nigerian nexus, the Foreign-to-Foreign Merger Guidelines provide an expedited procedure under which the Commission is required to conclude its review and issue a decision within 15 business days, following the payment of a processing fee of NGN10 million. The FCCPC generally adheres to this 15-day timeline, except where the notification is deficient or other substantive or procedural issues are identified.

4. Substance of the Review

4.1 Substantive Test

Section 94 (1) of the FCCPA requires the FCCPC to undertake two levels of review. At the first level, the FCCPC will determine whether the merger is likely to substantially prevent or lessen competition (SPLC) in a relevant market in Nigeria. Where the outcome of the FCCPC's review is negative, the merger will be approved. However, where the FCCPC determines that an SPLC situation does exist, it will undertake a second-level review that involves an in-depth substantive assessment of the merger. At this level, the FCCPC will also examine whether factors such as efficiency and public interest considerations can offset or reverse the SPLC situation.

The CBN will assess a merger on whether or not it is likely to lead to an SPLC situation in a relevant financial services sector market. The NCC will assess a merger on whether it is capable of a substantial lessening of competition or would result in a dominant position in a relevant communications market in Nigeria.

4.2 Markets Affected by a Transaction

As a general principle, the FCCPC would not assume that the merging parties operate in the same relevant market(s), even when there appears to be some overlap between their products and the geographic areas in which they conduct business. In addition, the FCCPC considers that the relevant market(s) being analysed for competitive effects may not necessarily correspond to the product categories or service areas established by the merging firms or their rivals for operational purposes.

Thus, the conceptual framework adopted by the FCCPC within which relevant information can be organised to assess the competitive effect of a merger is, in the first instance, to identify the products or services and geographic area in which competition may be harmed. In this regard, the FCCPC defines the relevant product market in terms of the set of products that customers consider to be close substitutes, while the relevant geographic market is defined in terms of the location of suppliers; this includes those suppliers that customers consider to be feasible substitutes and

it may be local, state-wide, regional, national or wider (transcending national boundaries).

Although neither the FCCPA nor the FCCPC explicitly mentions a “de minimis level,” a merger or acquisition involving two or more companies that operate in the same product or geographic market is eligible for notification through the simplified procedure if their combined market share is less than 15%. The FCCPC states that this simplified procedure may be applicable for mergers that do not pose significant concerns regarding competition.

4.3 Reliance on Case Law

As a matter of practice, the FCCPC allows the merger parties to rely on cases and theories from Nigeria and other jurisdictions as judicial precedents when articulating their views on the overall impact of the merger on market competition.

There is no preference for cases from any particular jurisdiction; what is most relevant is that the cases and theories relied on by the parties are applicable to the views they advance.

4.4 Competition Concerns

In reviewing mergers, the FCCPC is concerned about the following anti-competitive harms that can arise from those mergers:

- unilateral effects in a horizontal merger that involves two competing firms and removes the rivalry between them, allowing the merged firm to raise prices profitably;
- co-ordinated effects in either a horizontal or non-horizontal merger that enables or increases the ability for several firms within the market (including the merged firm) jointly to increase prices because it creates or strengthens the conditions under which they can co-ordinate; and
- vertical or conglomerate effects that may arise principally in a non-horizontal merger that creates or strengthens the ability of the merged firm to use its market power in at least one of the markets, thus reducing competition.

The FCCPC's approach to the assessment of these harms is set out in the MRG. The CBN and NCC may

recognise these same theories of anti-competitive harm.

4.5 Economic Efficiencies

The FCCPC considers economic efficiencies in circumstances where a merger has been determined to be capable of an SPLC situation. In such cases, economic efficiencies would be considered as a trade-off evaluated against the perceived anti-competitive effects of the merger. Such economic efficiencies must result in the better utilisation of existing assets, enabling the combined firm to achieve lower costs than either firm could have achieved alone.

According to the FCCPC, the party relying on efficiencies must prove that the efficiencies are:

- likely to occur;
- merger-specific; and
- greater than the anti-competitive effects of the proposed merger, which they will offset.

4.6 Non-Competition Issues

Non-competition issues are taken into account by the FCCPC during the review process. Specifically, the following non-competition issues are considered in applicable circumstances when reviewing a merger.

- Public interest gains, which must be substantial and specific to the merger. In addition, public interest considerations must be assessed under any of the following grounds:
 - (a) gains relating to a particular industrial sector or region – eg, the stable supply of electricity;
 - (b) employment;
 - (c) the ability of national industries to compete in international markets; and
 - (d) the ability of small and medium-sized enterprises to become competitive.
- The firm is failing, which can be used to justify the approval of an otherwise anti-competitive merger where one of the merging firms is in financial difficulties or at risk of bankruptcy.
- According to the FCCPC, the following conditions must be cumulatively met for the defence of a failing firm to be successfully invoked:
 - (a) the firm must be unable to meet its financial obligations in the near future;

- (b) there must be no viable prospect of reorganising the business through the process of receivership or otherwise;
- (c) the assets of the failing firm would exit the relevant market in the absence of a merger transaction; and
- (d) there is no credible, less anti-competitive alternative outcome than the merger in question.

The analytical framework adopted by the FCCPC for assessing these defences is set out in the MRG.

There are no specific rules for foreign direct investment in relation to merger control.

4.7 Special Consideration for Joint Ventures

The same standard applies to the substantive assessment of mergers and the substantive review of joint ventures. At the time of writing, there is no indication as to whether or not the FCCPC will examine possible co-ordination issues between joint venture parents when reviewing a joint venture.

5. Decision: Prohibitions and Remedies

5.1 Authorities' Ability to Prohibit or Interfere With Transactions

Section 98 of the FCCPA authorises the FCCPC to direct any of its officers to investigate a merger. In exercising this power, the FCCPC may also require any person or undertaking to provide any information regarding the merger. In addition, Regulation 20 (1) of the MRR authorises the FCCPC to prohibit a merger upon the conclusion of the review process.

However, the FCCPC has indicated that only mergers that lessen competition substantially will be prohibited. In assessing whether a merger is likely to prevent or lessen competition substantially, the FCCPC evaluates whether the merger is likely to lead to higher prices, either through the unilateral ability of the merged firm or in co-ordination with other firms. Generally speaking, the prevention or lessening of competition will be considered by the FCCPC to be “substantial” in either of the two following circumstances:

- where the price of the relevant product(s) would likely be higher in the relevant market than it would be in the absence of the merger (“material price increase”); or
- where sufficient new entry would not occur rapidly enough to prevent a material price increase or counteract the effects of such an increase.

Where the merging firms have pre-existing market power, individually or collectively, the FCCPC will consider smaller impacts on competition resulting from the merger to meet the test of being substantial.

5.2 Parties’ Ability to Negotiate Remedies

The FCCPC may apply remedies, or the merger parties may propose remedies, including:

- structural remedies, which typically involve the disposal of a business or assets from the merger parties to create a new source of competition (if sold to a new entrant) or to strengthen an existing source of competition (if sold to an existing competitor);
- behavioural remedies, non-structural remedies or “conduct” remedies, which are ongoing measures designed to modify, regulate or constrain the future conduct of the post-merger firm; and/or
- hybrid remedies, which are a combination of both structural and behavioural remedies and will be applied by the FCCPC when, for example, a merger involves multiple markets or products and competition is best preserved by structural relief in some relevant markets and by non-structural relief in others.

5.3 Legal Standard

While remedies are not generally required to meet a specific legal standard to be deemed acceptable, the FCCPC must, as a matter of practice, ensure that any proposed remedy is appropriately tailored to address the identified competition harm(s). The remedy must also effectively mitigate or eliminate such harm(s) to ensure that the merger does not substantially lessen competition.

5.4 Negotiating Remedies With Authorities

Merger parties may put forward remedies to the FCCPC at any time during the merger review pro-

cess, including during pre-notification consultations. Alternatively, the FCCPC may allow the merger parties to propose remedies in any of the following circumstances.

After the initial first-level review of the merger, if the FCCPC determines that the merger is likely to give rise to an SPLC situation, it shall issue an issues paper to the merger parties that, among other things, requires the presentation of a written response addressing the competition concerns raised in the issues paper and proposing remedies as applicable to alleviate them.

After consideration of the merger parties’ response to the issues paper, if the FCCPC still finds that the merger is likely to lead to an SPLC situation and the remedies proposed by the merger parties do not address the competition issues identified, it shall issue a Statement of Objections and commence the second level of the merger review process. At this level, the merger parties may put forward a remedies proposal in their response to the Statement of Objections to address the competition concerns raised by the FCCPC in the issues paper. Where the FCCPC is satisfied with the presentation of the merger parties, it may approve the merger at this stage, subject to requiring the merging parties to:

- take an action to remedy, mitigate or prevent the substantial lessening or prevention of competition; or
- fulfil any other conditions as may be appropriate in the circumstance of the case.

Thereafter, the FCCPC shall publish a non-confidential version of the remedies proposal, giving interested third parties the opportunity to comment on the effectiveness and sufficiency of the proposals. At least ten working days will be allocated for this consultation process, following which the FCCPC will determine whether the remedies proposal will be accepted and finalise the remedies package alongside the final decision on the merger.

The power of the FCCPC to approve a merger subject to conditions also includes the power to impose any remedies, whether or not agreed by the merger parties.

5.5 Conditions and Timing for Divestitures

There is no prescribed timeline for the implementation of remedies according to the decisional practice of the Commission. However, when approving a remedies package, the FCCPC may stipulate specific timeframes for implementing the remedies to address identified competition concerns. In certain cases, the merger may be completed prior to the implementation of the remedies, particularly where the remedy is post-approval in nature. In such instances, the FCCPC will, as a matter of practice, require the merging parties or the post-merger entity to provide an undertaking to implement the remedy as a condition for approval.

There is no specific penalty for failing to implement an approved remedy; however, non-compliance with any order or directive of the FCCPC is considered an offence under the Federal Competition and Consumer Protection Commission (Administrative Penalties) Regulations 2020. Offenders may face a base penalty of NGN5 million, which can be adjusted based on various factors, such as the duration of the non-compliance and any aggravating or mitigating circumstances present.

5.6 Issuance of Decisions

Section 97 (1) (b) of the FCCPA requires the FCCPC to issue a decision in the form of a report after considering a merger, stating whether to:

- approve the merger;
- approve the merger subject to condition(s); or
- prohibit the implementation of the merger.

Merger review decisions are not made publicly available.

5.7 Prohibitions and Remedies for Foreign-to-Foreign Transactions

As far as is publicly known, there have been no recent cases where the FCCPC has required remedies or prohibited a merger transaction. However, on 4 March 2023, the FCCPC published and invited comments with respect to the remedies package proposed by the merger parties in the proposed acquisition of a 21.61% equity stake by FMDQ Holdings PLC in Central Securities Clearing Systems PLC. The remedies proposed by the merger parties in this case are both

behavioural and structural; no information is available on the outcome of this case nor any decision of the FCCPC in this regard.

6. Ancillary Restraints and Related Transactions

6.1 Clearance Decisions and Separate Notifications

Both the FCCPA and the decisional practices of the FCCPC are silent on the concept of ancillary restraints. However, according to Regulation 13 (2) (b) of the MRR, certain contractual clauses ancillary to the merger transaction may be deemed a co-ordination or integration of the parties' businesses or their competitive conduct and thus expose them to liability for gun jumping. According to the FCCPC, these clauses demand greater scrutiny during the merger review process and include the following:

- the lack of a precedence clause delineating the effective date of the contract and the date of its execution in relation to the creation of any integration among parties;
- prior non-compete clauses;
- clauses for full or partial payment of non-reimbursable, earnest money deposit or advance payments, in consideration for the target, except in the case of:
 - (a) customary down payments for business transactions;
 - (b) deposits in escrow accounts; or
 - (c) break-up fees (payable if the transaction is not consummated);
- clauses allowing direct interference by either party in the other party's business strategies by submitting, for example, decisions over prices, customers, business/sales policy, planning, marketing strategies and other sensitive decisions (that do not constitute a mere protection against deviation from the normal course of business and, consequently, the protection of the value of the business being sold); and
- in general terms, any clause providing for activities that cannot be reversed at a later time or which implies the expenditure of a significant amount of resources by the agents involved or the authority.

7. Third-Party Rights, Confidentiality and Cross-Border Co-Operation

7.1 Third-Party Rights

Third parties are involved in the merger review process. Regulation 16 (1) of the MRR requires the FCCPC to publish a notice of a proposed merger upon satisfactory notification by the merger parties. Under Regulation 16 (2) of the MRR, the publication of the notice shall include an invitation to any interested third parties to comment on the merger by providing a written submission to the FCCPC within the prescribed timelines.

In addition, Regulation 16 (3) of the MRR requires the merger parties, in notifying the merger to the FCCPC, to provide evidence of service of notice of the proposed merger to any registered trade union that represents the employees in the acquiring and target undertakings respectively, or to the employees or representatives of the employees of the acquiring and target undertakings if there are no such registered trade unions.

7.2 Contacting Third Parties

In conducting a second-level review of the proposed merger, the FCCPC may hold hearings with third parties and issue detailed questionnaires to market participants, such as key customers or competitors, and industry experts, such as relevant public authorities or regulators.

The FCCPC does not generally market-test the remedies proposed by the merger parties. However, in assessing the effectiveness of a proposed remedy, the FCCPC would consider its competitive impact – ie, whether the remedy is designed to address the identified competition harm that is likely to result from the merger, with due consideration to how the remedy changes the competitive dynamics of the market and the incentives of the post-merger firm post-remedy. In doing this, the FCCPC will set out terms in the Remedy Order that specify and anticipate potential issues that may arise during the implementation phase to help actualise the intended competitive impact (eg, restoring competition) and protect against the merging parties' ability to thwart the intended competitive impact.

7.3 Confidentiality

The FCCPC publishes public notice of a proposed merger; however, commercial information is treated with the utmost confidentiality by the FCCPC at the request of the merger parties, including business secrets. If the merger parties believe that their interests would be harmed if any of the information they are required to supply were to be published or otherwise divulged to other parties, they should submit this information separately, with each page clearly marked "Business Secrets" under separate cover. They must also give reasons why this information should not be divulged or published.

In the case of business combinations or in other cases where the notification is completed by more than one of the parties, business secrets may be severally submitted under separate cover and referred to in the notification as an annex. All such annexes must be included in the submission for a notification to be considered complete.

7.4 Co-Operation With Other Jurisdictions

As a matter of policy, the FCCPC encourages the merger parties to facilitate international co-operation between the FCCPC and other competition authorities reviewing the same merger. During the pre-notification consultation and actual notification of the merger, the FCCPC encourages the merger parties to disclose the jurisdictions outside Nigeria where the merger is subject to regulatory clearance under merger review rules.

Furthermore, the FCCPC encourages the undertakings concerned to submit confidentiality waivers that would enable the FCCPC to share information with other competition authorities outside Nigeria reviewing the same merger. Each waiver is intended to facilitate joint discussion and analysis of a merger as it allows the FCCPC to share relevant information with another competition authority reviewing the same merger, including confidential business information obtained from the undertakings concerned.

8. Appeals and Judicial Review

8.1 Access to Appeal and Judicial Review

Merger review decisions are subject to appeal. Where a sector-specific regulator, such as the NCC, has issued a merger decision following a competition assessment, the FCCPC must first review it before it may be appealed to the Competition and Consumer Protection Tribunal (CCPT).

In contrast, decisions issued directly by the FCCPC are, in the first instance, appealable to the CCPT. Further appeals from the CCPT's decisions lie with the Court of Appeal.

8.2 Typical Timeline for Appeals

Notice of Appeal against the FCCPC decision (including merger review decisions) must be delivered to the Chief Registrar of the CCPT within 30 days of receiving the disputed decision, except where full reasons for the decision were not initially provided, in which case the 30-day period begins only upon receipt of the full reasons.

However, as far as is known, there have been no reported appeals against a merger review decision at the FCCPC, the CCPT or the Court of Appeal.

8.3 Ability of Third Parties to Appeal Clearance Decisions

Although the FCCPA does not expressly provide for third-party appeals of merger clearance decisions, it is conceivable that parties with a legitimate interest in the merger or those able to establish locus standi may be permitted to appeal such decisions. Notably, there is no precedent for appealing a merger clearance decision issued under the FCCPA in Nigeria, as no such appeal has been lodged to date.

9. Foreign Direct Investment/Subsidies Review

9.1 Legislation and Filing Requirements

There is no foreign direct investment/subsidies review legislation in Nigeria, nor are there related filing requirements.

Trends and Developments

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Streamsowers & Köhn is a full-service law firm in Nigeria, with offices in Lagos, Abuja and Port Harcourt. Its team comprises six partners, including three Senior Advocates of Nigeria (equivalent to a King's Counsel in the UK), as well as more than 20 associates. Since the enactment of the Federal Competition and Consumer Protection Act (FCCPA) in 2018, the firm's competition law practice has advised a broad range of clients across multiple sectors in all areas of competition law. Representative work includes ad-

vising an oil and gas industry group on the potential anti-competitive implications of a proposed technical standard; guiding a satellite telecommunications services provider on merger notification requirements before both the Federal Competition and Consumer Protection Commission (FCCPC) and the Nigerian Communications Commission (NCC); and providing strategic legal support to an international oil company in connection with an investigation initiated by the FCCPC.

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Introduction

Nigeria's merger control regime continued to mature through 2025–2026, characterised by sustained transaction activity, broader regulatory scrutiny and increasing convergence between competition law, consumer protection, sector regulation and data governance. The Federal Competition and Consumer Protection Commission (FCCPC) remains the principal authority responsible for merger review under the Federal Competition and Consumer Protection Act 2018 (FCCPA). However, merger oversight now operates within a broader and increasingly interconnected institutional ecosystem involving sector regulators, data protection authorities, financial regulators and, in contested matters, the courts.

Macroeconomic conditions and continuing policy reforms have also materially influenced transaction structuring and execution. Foreign exchange volatility, inflationary pressure and elevated financing costs have required parties to adopt more cautious valuation, pricing and risk allocation strategies. At the same time, regulators continue to balance competition and consumer welfare objectives against the wider policy imperative of attracting long-term investment into strategic sectors such as energy transition, logistics, digital infrastructure, healthcare and consumer markets.

Nigeria's merger control landscape has correspondingly become more active and sophisticated. A review of the FCCPC Merger Notification Portal indicates that, since our last publication in September 2025, at least 46 merger matters have been published, including share acquisitions, asset acquisitions and at least

one joint venture transaction. Three broad trends emerge from these filings.

First, a significant proportion of the matters appear to have proceeded under the simplified procedure, suggesting that many transactions did not raise substantial competition concerns within the Nigerian market notwithstanding continued filing activity. Secondly, a meaningful number of the notifications involved foreign-to-foreign or cross-border transactions with a Nigerian nexus, reinforcing the FCCPC's continuing willingness to assert jurisdiction where statutory thresholds are met and local market effects are present. Thirdly, transaction activity remained particularly visible in healthcare, energy and infrastructure, media and technology, manufacturing, telecommunications, construction and other consumer-facing industries.

Collectively, these developments indicate that merger control has become more firmly embedded within transaction planning and execution in Nigeria. Parties are increasingly devoting greater attention to jurisdictional analysis, filing strategy, interim conduct obligations, regulatory sequencing and execution risk at earlier stages of deal planning.

At a broader policy level, merger control is increasingly being treated as part of Nigeria's wider market governance framework, operating alongside financial regulation, sector licensing, consumer protection and data protection oversight. This broader regulatory lens helps explain why transactions that may appear competitively unproblematic from a traditional market share perspective can nevertheless attract regulatory interest where issues relating to pricing behaviour,

consumer outcomes, access conditions, platform conduct or data governance arise. This direction broadly reflects wider international competition policy trends observable in jurisdictions such as the European Union, the United Kingdom, South Africa, India and Brazil, where regulators are increasingly assessing digital and consumer-facing transactions through broader ecosystem and consumer welfare lenses rather than relying solely on traditional concentration metrics.

Accordingly, notifying parties should expect regulatory scrutiny extending beyond conventional market definition and horizontal overlap analysis. The FCCPC is increasingly focused on the potential impact of transactions on consumer welfare, pricing practices, data governance, digital conduct and the practical ability of merging parties to implement and monitor compliance commitments effectively.

Merger Activity in 2025–2026

Merger activity during 2025 and early 2026 reflected a market increasingly focused on resilience, portfolio optimisation and strategic repositioning rather than aggressive expansion. The publication of at least 46 merger matters by the FCCPC since our last publication demonstrates that transaction activity has remained relatively robust despite continuing macroeconomic pressures, including foreign exchange instability, inflation and tighter financing conditions.

Energy, infrastructure, healthcare, consumer goods, telecommunications, technology and other consumer-facing sectors remained particularly active. Both domestic and cross-border transactions continued to trigger Nigerian merger notification requirements where local nexus thresholds were satisfied.

The pattern of filings also suggests that competition compliance has become an established and integral component of transaction execution rather than a late-stage procedural consideration. The prominence of simplified procedure filings points to a steady volume of comparatively straightforward transactions, while the continued presence of foreign-to-foreign notifications confirms Nigeria's growing significance within broader multi-jurisdictional transaction planning.

Within the energy sector, familiar themes continued to shape transactional activity, including upstream divestments, portfolio rationalisation, increasing investment in gas as a transition fuel, and incremental expansion in renewables, embedded power and energy services. Although publicly available competition assessments in relation to energy transactions remain relatively limited, competition concerns are becoming increasingly significant in markets characterised by infrastructure concentration, particularly in midstream logistics and downstream distribution, where pricing and consumer welfare considerations can rapidly acquire regulatory and political significance.

In infrastructure-intensive sectors such as energy logistics, telecommunications and payments infrastructure, competition concerns increasingly arise not merely from horizontal overlaps, but from control over infrastructure that may be costly, difficult or time-consuming for rivals to replicate. In such sectors, regulators are increasingly required to balance long-term investment incentives against the risks of foreclosure, discriminatory access conditions and consumer harm.

Digital and technology markets present additional complexity. In many transactions, competitive significance increasingly derives not merely from turnover or traditional concentration indicators, but from control over data, user attention, interoperability pathways and ecosystem integration. Network effects, switching costs and data-driven feedback loops may reinforce market power even where conventional market share indicators appear modest. Consequently, even transactions involving relatively modest transaction values may attract heightened regulatory attention where they concern digital platforms, communications infrastructure, payments systems or data-intensive business models. Parties should therefore be prepared to address issues relating to control over strategic datasets, interoperability, exclusivity arrangements, data portability and the handling of competitively sensitive information during diligence and post-closing integration.

Taken together, these developments suggest that merger review in Nigeria is becoming progressively less concerned solely with structural concentration and increasingly attentive to how market power may

subsequently be exercised, particularly in digital and consumer-facing markets.

Merger Control Procedure: Enforcement Posture and Execution Risks

Over the past year, FCCPC practice has become more procedurally predictable, supported by clearer notification requirements, continuing reliance on the Merger Review Regulations (as amended) and expanded use of digital filing and administrative systems. Pre-notification engagement with the FCCPC is increasingly valuable, particularly where jurisdictional questions are complex, including in foreign-to-foreign transactions, multi-stage acquisitions or transactions involving overlapping sectoral approvals.

Pre-notification engagement may also assist where remedies could become necessary or where sector regulators operate on timelines that do not align with the FCCPC review process. Although the merger review process has generally become more navigable for notifying parties, stakeholders continue to advocate for greater transparency through the publication of reasoned decisions and clearer guidance relating to remedies and substantive assessment standards.

A continuing execution risk remains “gun jumping”, namely the implementation of a notifiable transaction prior to obtaining FCCPC approval. The risk is particularly significant in transactions involving valuable customer data, strategic personnel, critical infrastructure or key distribution channels.

The FCCPC has repeatedly emphasised the importance of compliance with notification and approval requirements and has consistently indicated that premature implementation may expose parties to regulatory sanctions, remedial measures and transaction delays. In practice, this requires careful interim governance arrangements, including robust clean team protocols, information barriers for competitively sensitive information and realistic transaction timelines capable of accommodating both competition clearance and sector-specific approvals.

However, as the FCCPC’s enforcement posture becomes more operationally ambitious, particularly in digital and consumer-facing sectors, questions con-

cerning institutional capacity, remedy monitoring and inter-agency co-ordination may become increasingly important. Behavioural remedies, data-related commitments and conduct-based undertakings frequently require sustained technical oversight and cross-regulatory co-operation, which may place significant demands on institutional resources.

The broader significance of this development is that merger control in Nigeria is evolving from a predominantly procedural notification system towards a more interventionist and compliance-oriented framework in which post-transaction conduct and operational governance are becoming increasingly relevant.

Conduct Regulation and Consumer Protection Shaping Transactions

In April 2026, the FCCPC published exposure drafts of two significant regulatory instruments: the Draft Consumer Protection Regulations 2026 and the Draft Authorisation, Exemption and Guidance Regulations (Non-Merger Matters) 2026, together with accompanying guidance notes. These drafts represent one of the FCCPC’s most comprehensive efforts to date to clarify and consolidate its approach to consumer protection, restrictive agreements and conduct regulations under the FCCPA.

Although these instruments are not merger regulations, they remain highly relevant to transaction planning because they provide insight into the standards of conduct the FCCPC increasingly expects businesses to maintain following completion of a transaction. Where mergers involve potential behavioural remedies concerning pricing, access, complaints handling, consumer transparency or data use, the final versions of these instruments may become important benchmarks for compliance assessment.

The draft Consumer Protection Regulations propose detailed obligations concerning transparency, disclosure, unfair contract terms and digitally mediated transactions. Particularly relevant to merger control practice is the draft’s emphasis on consumer data governance, consent standards and disclosure obligations within digital commercial environments. The Regulations also contemplate broader investigative and procedural powers, including inspections, hear-

ings, complaint handling mechanisms, compliance monitoring and treatment of digital evidence, reflecting the FCCPC's increasing focus on technology-enabled commerce and digital consumer conduct.

Similarly, the draft Authorisation, Exemption and Guidance Regulations introduce a more structured framework for obtaining exemptions or guidance in relation to agreements that may otherwise raise concerns under the FCCPA's restrictive practices provisions. This development is particularly significant for mergers involving ancillary restraints, exclusivity obligations, long-term supply arrangements or continuing commercial co-operation.

Taken together, the exposure drafts reinforce several broader regulatory trends:

- increasingly explicit conduct standards for consumer-facing businesses, particularly in digital markets;
- greater convergence between competition law and consumer protection enforcement, especially where data practices and platform conduct affect user choice and market access; and
- higher expectations regarding remedies, compliance systems and post-transaction monitoring.

The accompanying guidance notes further indicate the FCCPC's intention to provide greater interpretive clarity in emerging digital and technology-driven markets. Although the practical impact will ultimately depend on the final form of the legislation and future enforcement practice, the drafts provide a useful indication of the FCCPC's evolving regulatory priorities, namely transparency, accountability and consumer welfare in increasingly data-intensive markets.

From a policy perspective, the significance of these developments lies in the fact that competition regulation, consumer protection and digital governance are increasingly operating as interconnected regulatory objectives rather than isolated legal silos.

Federal and State Co-Ordination: FCCPC–LASCOPA Co-Operation

In April 2026, it was reported that the FCCPC and the Lagos State Consumer Protection Agency (LASCOPA)

entered into a memorandum of understanding aimed at strengthening co-operation in consumer protection enforcement within Lagos State, including information sharing, complaint referrals and co-ordinated interventions.

Although the arrangement is not merger specific, it is significant for consumer-facing transactions because state level consumer complaints and market conduct concerns may increasingly inform or escalate into broader federal regulatory scrutiny. The broader policy implication is that transaction parties may increasingly need to treat regulatory mapping as extending beyond federal competition approval alone. Consumer-facing businesses may become exposed to a more layered regulatory environment involving federal regulators, sector regulators, state agencies and data protection authorities.

The increasing overlap between competition regulation, consumer protection and sector-specific oversight also raises broader questions concerning regulatory co-ordination, procedural consistency and the management of parallel oversight mandates. How these institutional boundaries evolve may become one of the defining issues in the next phase of Nigerian competition law development.

Consumer Protection Oversight in Financial Services

The Federal High Court (Abuja Division) dismissed a challenge brought by United Bank for Africa Plc and affirmed that the FCCPC may receive and investigate consumer complaints involving banks and financial institutions in appropriate circumstances. Although the decision does not displace the Central Bank of Nigeria (CBN) as the primary financial sector regulator, nor conclusively resolve questions concerning the allocation of competition and merger control powers under BOFIA, it nevertheless reinforces the likelihood of overlapping consumer protection oversight within the financial services sector.

For transactions involving banks, fintechs, payment service providers and embedded finance businesses, the decision highlights the growing importance of diligence concerning consumer complaints, pricing practices, refunds, dispute resolution mechanisms

and broader consumer-facing conduct issues, all of which may generate both regulatory and reputational risks during and after a transaction.

The broader significance of the decision lies less in its immediate doctrinal implications and more in what it reveals about the regulatory direction of Nigerian financial services oversight. Consumer protection concerns are increasingly likely to intersect with competition issues, particularly in payment systems, digital lending and platform-based financial services where data governance, pricing transparency and user dependency may all become competition-relevant considerations.

FCCPC v MTN Nigeria Communications Plc: Practical Implications for Investigations

The Federal High Court (Abuja Division), per Justice Hauwa Yilwa, struck out criminal charges filed by the FCCPC against MTN Nigeria Communications Plc and certain executives following withdrawal by FCCPC counsel. The charges arose from alleged non-compliance with an investigative summons issued under the FCCPA. As the matter did not proceed to substantive adjudication, its significance is primarily practical rather than precedential. Nonetheless, it illustrates the FCCPC's willingness to escalate enforcement measures where it perceives regulatory non-cooperation.

For transaction parties, the key implication is that information requests during merger review or related investigations should be treated as dedicated and carefully managed workstreams, supported by clear internal governance, document management and audit trails. Where requests appear disproportionate or procedurally irregular, parties retain the right to challenge them within the applicable procedural framework. However, fragmented or delayed engagement with regulators may itself create additional regulatory risk.

The broader policy direction emerging from this development is that procedural co-operation and responsiveness are becoming increasingly important aspects of regulatory credibility during merger review and related investigations.

FCCPC Jurisdiction in Healthcare Service Complaints

On 15 April 2026, the Federal High Court (Abuja Division) held in *Lifebridge Medical Diagnostic Centre Ltd v FCCPC* that the FCCPC may investigate patient complaints against healthcare providers where the issues concern consumer satisfaction and service delivery notwithstanding existing professional regulation. The Court affirmed that professional services rendered for reward may fall within the scope of consumer protection legislation under the FCCPA.

Although the decision is not merger specific, it reinforces the importance of complaints history, service quality controls and consumer-facing operational risks as core diligence considerations in healthcare and other professional services transactions. For investors and acquirers, these issues may materially affect valuation, integration planning, regulatory exposure and reputational risk, particularly where consumer trust and brand reputation constitute significant competitive assets.

The broader significance of the judgment is that Nigerian competition and consumer protection law is increasingly extending beyond conventional commercial sectors into professional and service-based markets where quality, transparency and consumer trust may themselves become important competitive parameters.

Enforcement Beyond Mergers: Pricing, Essential Services and Behavioural Undertakings

During late 2025 and early 2026, the FCCPC also demonstrated an increasing willingness to intervene in pricing practices within politically and economically sensitive sectors. In December 2025, the FCCPC opened, and subsequently expanded, an inquiry into domestic airfare pricing on certain Nigerian routes following consumer complaints concerning allegedly exploitative or co-ordinated pricing practices during peak travel periods.

Although unrelated to merger review, the inquiry illustrates the FCCPC's broader enforcement posture in consumer-facing markets where pricing outcomes attract public concern. For transactions involving essential services or politically sensitive sectors, par-

ties should therefore anticipate regulatory scrutiny extending beyond concentration metrics to include pricing models, consumer complaints, transparency practices and the robustness of internal compliance systems. Similarly, the FCCPC's intervention involving Ikeja Electric in December 2025 demonstrated the Commission's growing willingness to utilise enforceable undertakings, monitoring mechanisms and compliance timelines as regulatory tools. For transactions involving essential services, infrastructure or regulated utilities, parties proposing behavioural remedies should therefore expect careful scrutiny concerning implementability, governance structures, reporting mechanisms and consequences for non-compliance.

Behavioural remedies in such sectors may become increasingly complex because they frequently require long-term monitoring, operational supervision and co-ordination between multiple regulators. This raises legitimate policy questions concerning remedy administrability, enforcement consistency and institutional capacity, particularly in sectors involving significant infrastructure asymmetry or politically sensitive pricing issues.

Taken together, these developments indicate that the FCCPC increasingly views consumer outcomes, pricing transparency and service reliability as integral components of market governance rather than merely post-transaction conduct issues.

Digital Markets, Consumer Finance and Data Governance

The FCCPC's activities in digital markets during 2025–2026 increasingly reflected the convergence between competition regulation, consumer protection and data governance. A particularly significant development was the introduction of the Digital, Electronic, Online, or Non-Traditional (DEON) Consumer Lending Regulations 2025, aimed at addressing persistent concerns within Nigeria's digital lending ecosystem. The DEON framework establishes registration requirements together with detailed obligations concerning disclosure, transparency, consumer protection, data governance and debt recovery practices. Public reporting and FCCPC communications indicate that non-compliance may expose undertakings to sub-

stantial financial penalties and potential director-level consequences in serious cases.

For transaction planning, the significance of the DEON regime lies in the increasing centrality of consumer protection and data governance considerations in mergers involving fintechs, digital lenders, credit infrastructure businesses and data-driven financial platforms.

Where transaction value is linked to scale, data analytics or digital ecosystems, regulators may increasingly scrutinise consent mechanisms, privacy governance, complaints history, collection practices and third-party commercial relationships.

This reflects a broader international trend in which digital competition concerns are increasingly linked to data concentration, ecosystem integration and user dependency rather than solely to conventional price-based analysis. In platform markets, the accumulation of data and user engagement may create competitive advantages that are difficult for rivals to replicate even in the absence of high market shares. Accordingly, merger assessment in digital markets is increasingly likely to involve questions concerning interoperability, switching costs, platform neutrality and the potential leveraging of data advantages across adjacent services.

Data Protection Enforcement and Merger Risk

Nigeria's data protection regime has also become increasingly active, with broader implications for merger review in data-intensive markets. The enforcement proceedings involving Meta Platforms Inc. before the Nigeria Data Protection Commission (NDPC) represent an important parallel development within Nigeria's wider digital regulatory landscape. The NDPC proceedings reportedly concerned allegations relating to unlawful data processing, consent deficiencies, non-compliant cross-border data transfers and broader concerns regarding algorithmic practices affecting Nigerian users. Public reporting indicates that the matter moved towards settlement in late 2025, with commitments relating to improved transparency, consent frameworks, data governance safeguards and accountability mechanisms.

Although distinct from merger control, the matter is relevant to transaction risk in several respects. First, it reinforces the position that Nigerian regulators increasingly treat data governance as a public interest issue extending beyond purely technical compliance. Secondly, it complements FCCPC jurisprudence that increasingly treats certain data governance failures as consumer protection and potentially competition-relevant concerns. Thirdly, it reflects a broader regulatory environment in which data, user choice, consent and transparency are increasingly viewed as strategically significant market assets. The significance for merger control practice lies less in the mechanics of the settlement itself and more in the regulatory alignment it reflects between data protection, competition regulation and consumer protection oversight. In data-intensive markets, consent, transparency and user choice are increasingly being treated as matters of public interest and, where they influence switching behaviour, exclusion or exploitation, as potentially competition-relevant considerations.

For merger control practice, the practical implication is that transactions involving digital platforms, advertising-driven business models or data-rich ecosystems may increasingly attract scrutiny not only from privacy regulators, but also from competition authorities concerned with market power, exclusionary conduct and consumer welfare.

Implications for Merger Control Practice

Across 2025–2026, Nigerian merger control has become increasingly interconnected with consumer protection, conduct regulation and data governance. Successful transaction execution therefore requires parties to anticipate regulatory concerns extending beyond traditional concentration analysis and to support their positions with credible operational evidence, economic reasoning and compliance planning.

In practical terms, transaction parties should consider the following:

- commence regulatory mapping early and integrate FCCPC strategy within a broader approvals framework encompassing sector licensing, privacy and consumer protection considerations;

- design robust interim conduct arrangements to mitigate gun jumping risks, including clean teams, information barriers and carefully managed integration planning;
- develop clear consumer-facing narratives demonstrating how transactions will improve investment, resilience, innovation and service quality while mitigating risks relating to pricing, access and consumer choice;
- anticipate more operationally focused remedy discussions involving enforceable undertakings, compliance monitoring and escalation mechanisms; and
- conduct enhanced diligence on data governance where data constitutes a strategic asset, including review of consent mechanisms, transfers, third-party access arrangements and proposed post-closing data uses.

Overall, merger strategy in Nigeria increasingly requires careful consideration not only of concentration metrics, but also of post-closing conduct, consumer outcomes and governance credibility. Early issue identification, targeted regulatory engagement and evidence-based remedy planning are therefore becoming increasingly important determinants of successful transaction execution. For boards, investors and deal professionals, these issues are no longer merely legal compliance matters. Regulatory concerns may materially affect transaction timelines, integration planning, valuation assumptions and broader public messaging, particularly in consumer-facing and data-intensive sectors.

Outlook Through 2026 and Beyond

Looking ahead, parties should expect a more structured, compliance-oriented merger filing environment, with continuing scrutiny of foreign-to-foreign transactions involving meaningful Nigerian market connections. The FCCPC is also likely to remain attentive to emerging theories of harm in digital and consumer-facing markets, including concerns relating to data exploitation, exclusionary platform conduct, ecosystem dependency and access restrictions.

At the same time, energy transition and infrastructure transactions will likely continue to test the balance between preserving competitive market structures

and encouraging long-term investment. Stakeholders also continue to advocate for greater transparency through the publication of reasoned decisions together with proportionality and predictability in filing fees. Although no confirmed changes to the merger fee framework had been publicly announced at the time of writing, discussions concerning fee reform are likely to remain relevant as Nigeria competes for investment within the wider African market.

Regionally, the operationalisation of the ECOWAS Regional Competition Authority (ERCA) may increasingly require transaction parties to co-ordinate merger strategy across multiple jurisdictions. Where parallel filings become necessary, parties should plan carefully for:

- consistent economic narratives across jurisdictions;
- co-ordinated transaction timelines and conditions precedent;
- disciplined interim conduct pending regulatory approvals; and
- alignment between national and regional competition obligations.

More broadly, the trajectory of Nigerian merger control suggests a gradual transition from a relatively procedural notification regime towards a more integrated system of market governance in which competition regulation, consumer protection, digital conduct and data governance increasingly operate as interconnected regulatory objectives.

The next phase of Nigerian competition law development will likely depend not only on the FCCPC's substantive enforcement choices, but also on the quality of institutional co-ordination, transparency, economic sophistication and the credibility of post-merger compliance oversight.

Conclusion

During 2025–2026, Nigeria's merger control regime continued to evolve in both scope and institutional confidence, with broader cross-sector relevance and increasing sensitivity to digital, consumer-facing and data-driven theories of harm. The publication of at least 46 merger matters by the FCCPC since our

last publication, together with the continuing prominence of simplified procedure filings and cross-border transactions involving Nigerian market connections, demonstrates that transaction activity has remained resilient despite ongoing macroeconomic pressures.

For transaction parties, this combination of sustained filing activity and broader regulatory scrutiny makes the quality of the competition narrative, together with the credibility of post-closing governance and compliance arrangements, increasingly important.

The broader trajectory of Nigerian merger control suggests a gradual transition from a relatively procedural notification regime towards a more integrated framework of market governance in which competition law, consumer protection, digital regulation and data governance increasingly converge. The practical implication is that merger review in Nigeria is becoming progressively less concerned solely with whether transactions increase concentration and increasingly concerned with how market power may subsequently be exercised, particularly in consumer-facing and data-intensive markets.

The central strategic imperative is therefore early and evidence-based regulatory planning. Parties should map approvals across relevant agencies, assess jurisdictional questions at an early stage, and treat consumer outcomes, complaints history and data governance as core transaction considerations rather than peripheral compliance issues. Where remedies are likely to arise, they should be designed from the outset with operational realism, monitoring mechanisms and governance accountability in mind. Even in the absence of extensive published decisional practice, merger control in Nigeria has clearly become both a core transaction risk and a broader strategic governance issue for boards, investors and transaction advisers.

Ultimately, the future effectiveness and credibility of Nigerian merger control will depend not only on the strength of substantive enforcement, but also on the development of transparent decisional practice, institutional co-ordination, economic sophistication and proportionate regulatory oversight capable of balancing consumer welfare, market contestability and long-term investment incentives.