

Namibian Competition Commission prohibits merger in road surfacing market

By [Leana Engelbrecht](#)

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The Namibian Competition Commission prohibited a proposed merger in terms of which Colas South Africa Proprietary Limited and Road Contractor Company (RCC) Limited were to acquire equal shareholding in Guinea Fowl Investments (which would be renamed Oryx Surfacing Proprietary Limited).



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RCC, in the road surfacing market, holds a contract with the Namibian Road Agency which has been in effect for over 10 years (through habitual renewal) and the Commission was sceptical of RCC's contention that the contract will come to an end in early 2014. The Commission was, accordingly, of the view that it is most likely that RCC would, through its joint control of Oryx, tender for more road surfacing contracts (and would be able to do so more successfully as Oryx would contribute to the RCC's capacity and negate the need for RCC to subcontract), which it would obtain by virtue of its good relationship with the Road Agency.

Upstream market

The Commission paid special attention to the upstream market for the supply of bituminous products. In this upstream market a subsidiary of Colas South Africa (Colas Namibia) was one of only two competitors and had the lion's share of the market. The Commission was of the view that Oryx would enjoy more competitive prices for its bitumen inputs from Colas Namibia by virtue of Colas South Africa's joint interest in Oryx - to the detriment of Oryx's competitors.

The Commission concluded that this situation would, in turn, lead to the foreclosure and ultimate exiting of the market by Colas Namibia's only competitor in the bitumen market resulting in Colas Namibia obtaining a monopoly.

The Commission, accordingly, prohibited the proposed transaction based on concerns of foreclosure in both the road

surfacing market and the upstream bitumen supply market and concerns relating to the dominance of a subsidiary of one of the merging parties.

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