



INCORPORATING  
**KIETI LAW LLP, KENYA**

1 Protea Place Sandown 2196  
Private Bag X40 Benmore 2010  
South Africa  
Dx 42 Johannesburg

**T** +27 (0)11 562 1000  
**F** +27 (0)11 562 1111  
**E** [jhb@cdhlegal.com](mailto:jhb@cdhlegal.com)  
**W** [cliffedekkerhofmeyr.com](http://cliffedekkerhofmeyr.com)

Also at Cape Town, Nairobi and Stellenbosch

**Competition Commission of South Africa**

DTI Campus  
Mulayo (Block C)  
77 Meintjie Street, Sunnyside  
Pretoria

Our Reference  
Account Number  
Your Reference  
Direct Line  
Direct Telefax  
  
Direct Email  
  
Date

Lara Granville  
22062545  
2022APR0051  
+27 11 562 1720  
+ 27 11 562 1721  
[lara.granville@cdhlegal.com](mailto:lara.granville@cdhlegal.com) /  
[leago.mathabathe@cdhlegal.com](mailto:leago.mathabathe@cdhlegal.com)  
29 September 2023

**Attention: KATLEGO CHUENE / RUAN MARE / IAN MROZEK**

By Email: [KatlegoC@compcom.co.za](mailto:KatlegoC@compcom.co.za) / [RuanM@compcom.co.za](mailto:RuanM@compcom.co.za) / [IanM@compcom.co.za](mailto:IanM@compcom.co.za)

Dear Katlego, Ruan and Ian

**FOOD LOVERS HOLDINGS (PTY) LTD // FRESH PRODUCE MARKET INQUIRY: COMPETITION COMMISSION REQUEST FOR ADDITIONAL INFORMATION CASE NO.: 2022APR0051**

We refer to the matter above and your letter dated 14 September 2023 ("**the Additional RFI**").

As you are aware, we act on behalf Food Lovers Holdings Proprietary Limited ("**FLH / our Client**").

For the sake of convenience, we have repeated the Competition Commission of South Africa's ("**the Commission**") queries below in bold, with our Client's responses thereafter.

**CHAIRPERSON** TS Fletcher **CHIEF EXECUTIVE OFFICER** B Williams **CHIEF FINANCIAL OFFICER** ES Burger

**DIRECTORS: JOHANNESBURG** K Anderson JA Aukema G Barkhuizen-Barbosa R Beerman E Bester A Bezuidenhout TE Brincker JJ Brink B Brown V Chaplin CWJ Charter CJ Daniel A de Wet N Dhana C Dutilleux P Erasmus JJ Feris TS Fletcher TG Fuhrmann F Gattoo MZ Gattoo S Goma L Granville I Hayes E Hewitt AJ Hofmeyr Q Honey WH Jacobs TC Jegels B Jennings T Jordaan R Kelly<sup>#</sup> M Khumalo J King Y Kleitman P Kortjaas AM le Grange FE Leppan<sup>#</sup> CJ Lewis HJ Louw II Mahomed V Manko B Masuku B Meyer J Meyer P Modika R Moodley A Moolman MB Mpahlwa MG Mphafudi C Murray KT Nkaiseng P Nkuna H Parak A Patel DB Pinnock AG Reid J Reid C Rumsey H Schensema M Serfontein TP Smit L Smith S Spamer T Toson R Valayathum HR van der Merwe JG Webber R Webster M Werner K Weyers JG Whittle DA Wilken B Williams CA Wood

**DIRECTORS: CAPE TOWN** TN Baker TJ Brewis MR Collins A de Lange S Franks AJ Giliam J Gillmer AJ Hannie PB Hesselings S Immelman JAD Jorge A Kariem JA Krige D Kruger GC Lumb B Mangale RE Marcus SI Meyer T Moodley W Murray GH Pienaar L Rhoodie MB Rodgers BJ Scriba DM Thompson A Van Niekerk CW Williams

**EXECUTIVE CONSULTANTS:** AC Alexander RD Barendse M Chenia J Latsky FT Newham JM Wits-Hewinson

**CONSULTANTS:** A Abercrombie S Dickson JMA Evenhuis<sup>∞</sup> J Ewang JH Jacobs EJ Kingdon K Patrick T van Schalkwyk

**COUNSEL:** NK Fletcher SM Kelly TZ Rapuleng

**SENIOR ASSOCIATES:** I Abdullah S Allen N Amardien JL Botha AC Butcher A Cachalia L Chance KC Chimedza L de Waal DV Durand \*R Gitonga L Kara \*RS Kashero-Ondego M Koti S Kruger L Lobola JA Loser K Maake NNN Mabehena R May T Mila V Moodaley L Moosa \*BI Muchiri \*CW Mugenyu \*AM Mutie D Naidoo T Nhlapho C Oates K Pillay MA Ramanyimi E Roos ER West BC Wits - Hewinson GMN Xaba C Yang

**CLIFFE DEKKER HOFMEYR SERVICES PROPRIETARY LIMITED DIRECTORS:** GC Badenhorst ES Burger JA Cassette AB Hoek TC Jangara MW Lington R Mouton B Williams

**KIETI LAW LLP PARTNERS:** **NAIROBI** S Ndolo<sup>∞s</sup> C Wambua\* D Odhiambo\* S Otanga\* N Wagacha\* AM Kanyi\* MAW Mbugua\*

<sup>#</sup>British <sup>∞</sup>Dutch \*Kenyan

- 
- 1 **With regard to "Item 10 – FLM price and costing information" of your client's submission dated 24 May 2023:**
- 1.1 **Explain what is "Apples Tpack" and how it differs from "Apples" dataset?**
- 1.1.1 "Apples Tpack" refers to a one-kilogram apple thrift pack, whereas "Apples" refers to loose selling apples.
- 1.2 **Explain what is the "Pears TPack" and how it differs from the "Pears LS" dataset?**
- 1.2.1 "Pears Tpack" refers to a one-kilogram pear thrift pack, whereas "Pears LS" refers to loose selling pears.
- 1.3 **Kindly clarify which unit of measurement was used for the volume data.**
- 1.3.1 The data in the "Sales Quantity" is made up of sales either measured in kilograms or units (such as a 1kg pack or a 500g box, etc), depending on the item. FLH, in putting together the information, aggregated the data. Therefore, the total values shown are a combination of both.
- 1.4 **Regarding the "Sales Value" and "Average Selling Price" datasets – does it exclude or include VAT?**
- 1.4.1 The "Sales Value" and "Average Selling Price" datasets are exclusive of VAT.
- 1.5 **We note that Food Lovers has submitted data from March 2018 till February 2023. It is further submitted at paragraph 10.7.2.2. of your letter dated 7 June 2023 "*The data reflects FLM SA's financial year as the "period". FLM SA's financial year runs from 1 March to 28 February of the following year. Therefore, for instance, January and February 2018 (as reflected in column A of the spreadsheet represent January and February of FLM SA's 2018 financial year, but are actually January and February 2019 in calendar year.*" While we note the clarification – Food Lovers has submitted data for January 2023 and February 2023 in the "ALL" tab – which based on the above statement, would suggest that the data is for calendar year January 2024 and February 2024. Kindly clarify whether the statement only refers to the data contained in the "AVG\_PM" tab only or also applies to the data contained in the "ALL" tab.**
- 1.5.1 FLM SA's financial year runs from 1 March to 28 February of the following year. The data provided spans the period from beginning of March 2017 to the end February 2023.
- 1.5.2 The "Financial Year" field is not the calendar year, but the financial year and the months are in order of the calendar year. In other words, the year shown next to the January and February months are the only two months where the calendar year is the same as the financial year. For the rest of the months (March to December), the calendar year is one less than the financial year. By way of example: June 2018 on the report (financial/fiscal calendar) is June 2017 on the normal (Gregorian) calendar. Therefore, January and February 2018 (as reflected in column A of the spreadsheet) represent January and February of FLM SA's 2018 financial year, as well as January and February 2018 calendar year. This means that the final months included in the data are January and February 2023 (fiscal and Gregorian calendar).
- 1.5.3 All of the data on all of the sheets use this data scheme, and therefore it applies to the "AVG\_PM" as well as "ALL" tabs.
- 1.6 **You have provided cost of sales data (see column F in the "ALL" tab as an example). Kindly clarify each cost item used to determine the cost of sales data. Kindly note that your response to this question will also have an impact on the follow-up information request referred to in paragraph 5 above.**
- 1.6.1 The costs reflected in the "Cost of Sales" solely includes the cost price of the goods purchased from suppliers.
- 1.7 **Kindly provide the monthly data for the "ALL" tab from January 2017 till February 2018.**
- 1.7.1 The monthly data presented in the "ALL" tab includes data from March 2017 to February 2018. Data that precedes March 2017 has been archived and is not readily available.

- 
- 1.8 **In addition to the above, kindly provide the monthly payments per unit paid by Food Lovers to its contracted farmers from January 2017 till December 2022 for each of the identified relevant products.**
- 1.8.1 Payments to suppliers are made monthly and are paid for all provision of all products (not separated by product or unit) provided by the supplier (and not necessarily aligned to the product delivered in that month).
- 1.8.2 As such, the information is not available – it is not possible to align payments directly to units.

We remain available to assist the Commission in the conclusion of the FPMI. Please contact us if you have any questions.

Yours sincerely

*(Transmitted Electronically)*

**CLIFFE DEKKER HOFMEYR INC**