



CA Suspends Multi-Million Pula Tender On Suspicion Of Bid-Rigging



The Competition Authority has suspended a multi-million pula tender to supply and deliver building materials and small tools at the Hukunsi Sub-District Council following allegations of bid-rigging on the tender.

“After conducting preliminary inquiries, the Authority is of the view that there are evident contraventions of the Competition Act, in particular bid-rigging and other improprieties in the award of the tender. The Competition Authority is joined by its MoU partner, DCEC, in unearthing relevant information as the improprieties found fall within the DCEC mandate. As a consequence, the execution of the tender has since been suspended pending further steps to be advised by the Competition Authority on the matter,” the Authority said in a media statement on June 6th.

Bid-rigging, also known as collusive tendering, has the biggest potential to cause harm in public procurement which is usually the major driver of many economies, and especially so in Botswana where government is a major economic player.

The Competition Authority, Directorate on Corruption and Economic Crime, (DCEC) and the Public Procurement and Asset Disposal Board (PPADB) signed an MoU in November 2011 chief amongst its aims being to combat bid-rigging. In the MoU the tripartite partners pledged to timely share relevant information to support each other and to collectively contribute to the creation of a good business environment in Botswana that inspires investor confidence.

In order to combat bid-rigging in public procurement, the Competition Authority has been conducting a series of workshops with government ministries and parastatals to empower officers in Tender Committees and Procurement Units with skills to detect and prevent bid-rigging.

Buying Groups Urged To Make Applications To The CA

Enterprises that are part of any collective arrangement such as a joint buying group have been called upon to make applications to the Competition Authority by submitting the agreements regulating such arrangements for assessment and possible exemption.

“Enterprises are urged to refer to the provisions of section 32 of the Competition Act and Part III of the Competition Regulations in making their submissions, which should reach the Authority no later than 31st July 2014” the Authority said in a press release on June 10th.

The Authority warned that any enterprise failing to submit such agreements will be investigated and the provisions of the Competition Act will be duly applied to the agreements in question.

In terms of section 32 of the Competition Act, the Authority may grant exemptions in relation to certain agreements that may ordinarily infringe the Competition Act, if on assessment it can reasonably be expected that there will be offsetting benefits for the public directly attributable to such agreements.

A buying group is the coming together of similar independent businesses to leverage their combined purchasing power to receive better pricing and terms on the products they buy. Buying groups operate in most industry sectors at both the wholesale and retail levels.

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Competition Authority Scoops Most Media Visible Parastatal Award



CEO Mr. Thula Kaira (middle) with the Communications and Advocacy Team from left to right Mr. Gideon Nkala, Ms. Gladys Ramadi, Ms. Kelebogile Ngwenya and Mr. Salvador Maruping

The Competition Authority has scooped the Most Media Visible Parastatal Award at the annual Ministry of Trade and Industry (MTI), Performance Awards.

The award was one of two reserved for parastatals at the MTI Awards which were held on 5th June at the Gaborone International Convention Centre. The Citizen Entrepreneurial Development Agency, (CEDA), scooped the award for Best Performing Parastatal. The awards were presented by the Minister of Trade and Industry, Honourable Dorcas Makgato-Malesu.

At a ceremony to celebrate the award, the CEO of the Competition Authority, Mr. Thula Kaira congratulated staff of the Authority for the award, with special mention of the Communications and Advocacy Team for their leadership in media matters. Mr Kaira implored every staff member to strive for impact in everything they do as they implement the Corporate Strategic Plan and Balanced Score Card.



Trade and Industry Minister Hon. Dorcas Makgato - Malesu with the CEO Mr. Thula Kaira at the MTI Performance Awards



CA Award certificate

Tsetseng Retail Group Acquisitions Approved With Conditions

The Competition Authority has requested Tsetseng Retail Group to continue to support local producers by sourcing supplies from them wherever their stores are located and also retain all the existing staff on their existing terms and conditions of service following the Group's proposed acquisition of Food Lovers Market Franchise at Rail Park Mall in Gaborone and Tutume Spar.

These were the conditions set by the Authority as it authorised the acquisition of assets and undertakings of the Food Lovers Market franchise business operated by Kimbo Investments Proprietary Limited at Rail Park Mall in Gaborone by Tsetseng Retail Group Proprietary Limited trading as Spar supermarket.

Announcing its decision on 5th June 2014 the CA said the acquisition is not likely to result in substantial lessening of competition, nor endanger the continuity of service, due to the existence of post-merger competitive restraints posed by an existing dominant player Choppies Enterprises and South African chain stores, such as Pick n Pay and Shoprite.

“The entry of Spar is anticipated to provide effective competition at Rail Park Mall by way of offering a feasible alternative for low cost substitutability with respect to existing competitors; and the implementation of the proposed merger is not expected to result in the merged entity attaining a dominant position in Gaborone”, CA held.

Similar conditions were set by the CA when it approved the acquisition of assets and trading stock of Tutume Spar by Tsetseng Retail Group on 30th May. The Group committed to buying from local producers, not only in Tutume but also in other areas where their stores are located, and to retain all the existing staff of Tutume Spar.

The Authority had considered the proposed acquisition is not likely to result in substantial lessening of competition, nor endanger the continuity of service, due to the absence of geographical overlap between the activities of the merging parties in Tutume. Furthermore, the implementation of the proposed merger is not expected to result in the merged entity attaining a dominant position, as it is not expected that the current market structure would be affected.

CA Sells Its Mandate At Fairs And Exhibitions



Communications and Advocacy Officer Kelebogile Ngwenya briefing visitors to the CA Stall at the Kgatleng District Open and Market Day in Ramotlabaki



The President of BOCCIM Mr. Leta Mosenyane (3rd from left) with the Managing Director of Botswana Telecommunications Corporation Limited Mr. Paul Taylor (4th from left) with other guests at the 2014 BOCCIM Northern Trade Fair

The Competition Authority graced the Kgatleng District Open and Market Day which was held in Ramotlabaki village on 28th May and informed locals about its mandate and that of the Competition Commission. Welcoming guests to the event which was held at the Kgotla (traditional meeting place), the village chief thanked all the Government Ministries and Parastatals who brought their services to people in the area.

The Authority also attended the BOCCIM Northern Trade Fair which was held in Francistown from 21st to 25th May 2014. The fair, which is held annually, brings to one place businesses and organisations in order for the public to have close interaction with them. The Authority uses it to continue its efforts of sensitising both the public and different enterprises in the northern region about its mandate.

Ministry Of Trade Parastatals Hold Tournament

The Competition Authority participated in the inaugural tournament for parastatals under the Ministry of Trade and Industry (MTI), dubbed the All-MTI Parastatals Tournament, which was held at the Bank of Botswana Grounds on 17th May.

The tournament brought together the Botswana Investment and Trade Centre (BITC), Botswana Development Corporation (BDC), Botswana Bureau of Standards (BOBS) the Citizen Entrepreneurial Development Agency (CEDA), Local Enterprise Authority (LEA), and a team from the Media.

The objective of the tournament, which was hosted by BITC, was to foster a mutually beneficial relationship with other MTI Parastatals, staff and board members.

Another objective of the tournament, which is to be held annually, is to compliment wellness programmes within each of the participating parastatal. The media was invited to participate as a critical stakeholder and partner. The Overall Champion for the 2014 tournament was shared between BITC, BOBS and LEA. The best branded parastatal award was scooped by LEA who were also crowned the relay champions.

BITC scooped the football and netball trophies. BOBS emerged the tug of war and volleyball champions. CA's netball team won silver and the relay teams romped home with two silvers and a bronze.



CA Netball Team which won silver at the All-MTI Parastatals Tourney



CA football team playing against BITC football team

NEWS FROM OTHER COMPETITION JURISDICTIONS

Eagles Nest Loses Appeal Against Competition Commission

One of the giant poultry companies in Swaziland, Eagles Nest, has lost an appeal against a judgment issued by the High Court dismissing an application for relief for a judicial review after being charged by the Competition Commission for unlawful anti-competition practices and mergers.

On 30th May 2014 the Supreme Court dismissed the appeal application by Eagles Nest and five other companies against the Swaziland Competition Commission (SCC) after finding that the earlier application by the company to the High Court was still-born. The court dismissed the application as unmeritorious.

Eagles Nest, Usuthu Poultry, Eagles Milling, Crane Feeds, Farm Services and Crane Properties, had taken the Competition Commission to court seeking a judicial review after being charged by the commission for unlawful anti-competition practices and mergers. This came after the commission had launched its investigations in the alleged unlawful practices by the companies.

Eagles Nest and the six others then filed an appeal at the Supreme Court against a judgment issued by High Court Principal Judge Stanley Maphalala on December 12 2013. Judge Maphalala dismissed the application for relief with costs and it is from that judgment that they approached the Supreme Court.

Before handing down judgment, the Supreme Court observed that the commission was charged with policing a very important area of the livelihood of the Swazi nation, which is the economy. According to Appeal Judge Twum, at common law, competition was controlled by the crude laws of supply and demand supported by the classical economic theory.

According to Judge Moore, for fairly small countries any artificial tinkering of the economy could wreak undue hardship on the population. It is for that reason, according to the Supreme Court, that most nations have enacted institutions like the office of fair trading or monopolies and merger commission to monitor and control anti-competition acts.

In its judgment summary, the court stated that the commission's duties and function are clearly spelt out in section 13 of the Competition Act 8 of 2007 and therefore charged the appellants with unlawful anti-competition practices and mergers after its investigations.

The court also observed that at the very beginning of their answering affidavit, the respondents (commission) submitted that the proceedings were a diversionary tactic by the applicants to avoid answering to the charge of engaging in anti-competitive trade practices prohibited by the Swaziland Competition Commission.

Source: Swazi Observer

South Africa Appoints New Head of Competition Commission

The Competition Authority of Botswana congratulates Mr. Tembinkosi Bonakele on his appointment as the new Commissioner of the Competition Commission of South Africa on 16th May 2014. "We have no doubt that Mr. Bonakele will lead the institution to greater heights" the CEO Mr. Thula Kaira said when speaking to the Botswana Competition Bulletin.

In his remarks to the South African Press, Mr. Bonakele is said to have acknowledged that he is aware of the enormous task of leading the Commission and will work with his colleagues to firmly establish the Competition Commission as an important institution in promoting economic development in South Africa.

Mr. Kaira further paid glowing tribute to the former Commissioner Mr. Shan Ramburuth and wished him the best in his new endeavours. He hailed Mr. Ramburuth for having taken the Commission to greater heights during which time they scored numerous and admirable victories against cartels, and won an award as the best competition authority in Africa and the Pacific region.

Mr. Kaira added that Mr. Ramburuth had been instrumental in supporting competition authorities in the region and as a founding member of the Africa Competition Forum (ACF), he and his team at the CompCom played a key role in assisting with developing the structures of the ACF and facilitating agency effectiveness of other competition authorities.

Source: Competition Commission of South Africa



Mr. Tembinkosi Bonakele the newly appointed Commissioner of the Competition Commission of South Africa



Former South African Competition Commissioner Mr. Shan Ramburuth

COMPETITION AUTHORITY IN PICTURES

Competition Authority Scoops Most Media Visible Parastatal Award



Captions

1. Trade and Industry Minister, Hon. Dorcas Makgato-Malesu handing the award to the CEO Mr. Thula Kaira at the Ministry of Trade and Industry Performance Awards at the GICC on 5th June 2. Staff Celebrating the Award: (from left) Ms Tebelelo Pule, Ms. Magdeline Gabaraane, Mr. Thula Kaira, Ms. Rebecca Rabakane, Ms. Tebogo Tyolo, Mr. Tonny Kolanyane 3. Dr. Mokubung Mokubung, Mr. Mooketsi Ntwaagae and Ms. Gladys Ramadi toasting to the Award 4. Ms. Kelebogile Ngwenya and Mr. Gideon Nkala Celebrating the Award 5. Trade and Industry Minister, Hon. Dorcas Makgato-Malesu Speaking at the Ministry's Awards Ceremony on 5th June

All-MTI Parastatals Tournament



Captions

1. Tug of war 2. Some CA staff at the games 3. Some Members of the Botswana Bureau of Standards Team 4. Some Members of the Media Team 5. Botswana Investment and Trade Centre CEO Mr. Letsebe Sejo, Director of Mergers and Monopolies Ms. Magdeline Gabaraane and, BITC Communications Manager Tumi Teseletso at the Prize-Giving Ceremony 6. Spectators at the BITC Stall

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