



MERGER DECISION NO 09: 2022

Notice in Terms of Section 53(4) (a) (ii) of the Competition Act of 2018

DECISION ON THE PROPOSED ACQUISITION OF SOLE CONTROL OF VIVO ENERGY PLC BY VIP II BLUE B.V.

Introduction of the Merging Parties

- i. Pursuant to section 53(4)(a)(ii) of the Competition Act 2018 (“the Act”), notice is hereby given on the decision made by the Competition and Consumer Authority (“The Authority”) in respect of the proposed acquisition of sole control of Vivo Energy plc (“Vivo Energy”) together with its subsidiaries and affiliates by VIP II Blue B.V. (“VIP II Blue”). The transaction was notified to the Authority on 19th January 2022, and the merger assessment was completed on 18th March 2022.
- ii. The Acquiring Enterprise, VIP II Blue is a newly formed company incorporated in accordance with the Laws of the Netherlands and established for the purposes of the Proposed Transaction. VIP II Blue forms part of the Vitol Group which has a non-controlling stake in Vivo Energy, the Target Entity.
- iii. The Target Enterprise, Vivo Energy, is a public company listed on the London Stock Exchange, with a secondary inward listing on the Johannesburg Stock Exchange. Vivo Energy is not controlled by any enterprise or individual. In Botswana, Vivo Energy operates through Vivo Energy Botswana (Pty) Ltd (“Vivo Energy Botswana”), and has 88 service stations, as well as a non-fuel retail service offering. Additionally, Vivo Energy Botswana has three (3) storage facilities, one (1) in Francistown, and two (2) in Gaborone.

Relevant Markets

- iv. In terms of the relevant markets, the assessment of the Proposed Transaction revealed that there is no product overlap in the activities of the Merging Parties in Botswana. The Acquirer through the Vitol Group is mainly active in the trading of refined petroleum products, which is an upstream activity taking place globally. For its part, the Target Firm (and its subsidiaries) are mainly active in the downstream supply chain (retail and commercial distribution of petroleum products) solely in Africa. Furthermore, the Proposed Transaction represents a change (increase) in shareholding of the Target Enterprise happening at group level, and not in Botswana.

Competitive Analysis and Public Interest

- v. The Authority's assessment did not reveal any substantial lessening of competition concerns that would arise as a result of the Proposed Transaction due to the absence of product overlap in the activities of the Merging Parties in Botswana. Accordingly, the Authority does not anticipate any public interests concerns to arise in the relevant market in Botswana post-merger.

The Determination

- vi. The Authority determined through the analysis of the facts of the merger, that the Proposed Transaction is not likely to result in a substantial lessening of competition, nor endanger the continuity of service, in the relevant market in Botswana. Furthermore, there is no acquisition of market dominance post-merger; nor any negative effect on public interest in Botswana identified, in relation to the provisions of the section 52 of the Competition Act of 2018.
- vii. Pursuant to the provision of section 53 of the Competition Act, the Authority has decided to *unconditionally approve* the proposed acquisition of sole control of Vivo Energy plc together with its subsidiaries and affiliates by VIP II Blue B.V.

However, as stated under section 61 of the Act, this approval does not override or negate any other mandatory statutory approvals or processes that any of the parties to this merger must comply with under the Laws of Botswana.

Dated at Gaborone on this 21st day of March 2022.

Tebelelo Pule, Chief Executive Officer, Competition and Consumer Authority, P/Bag 00101, Gaborone, Plot 28, Matsitama Road, Tel: 3934278 Fax: 3121013