



MERGER DECISION NO 11: 2022

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

DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF 100% OF THE ISSUED SHARE CAPITAL IN MUPANE GOLD MINING (PTY) LTD BY HAWKS MINING (PTY) LTD FROM GALLERY GOLD (PTY) LTD

Introduction of the Merging Parties

Pursuant to section 53(4)(a)(ii) of the Competition Act of 2018 ("the Act"), notice is hereby given on the decision made by the Competition and Consumer Authority ("the Authority") in relation to the proposed acquisition of 100% of the total issued share capital in Mupane Gold Mining (Pty) Ltd ("Mupane Gold Mining" or the "Target Enterprise") by Hawks Mining Company (Pty) Ltd ("Hawks Mining" or the "Acquiring Enterprise") from Gallery Gold (Pty) Ltd. The transaction was notified to the Authority on 3rd March 2022 and the merger assessment was completed on 12th April 2022.

The Acquiring Enterprise, Hawks Mining, is a limited liability company incorporated in accordance with the Laws of Botswana. It is a Special Purpose Vehicle ("SPV") and was incorporated for purposes of acquiring amongst others the Target Enterprise. The Acquiring Enterprise does not directly or indirectly control any enterprise in Botswana.

The shareholders of Hawks Mining are: Cedric Goganang Sam; Julius Rampart; Tobedzani Kuriwa; and Bradshaw Zinyemba.

The Target Enterprise, Mupane Gold Mining, is a limited liability company incorporated in accordance with the Laws of Botswana. The Target Enterprise is wholly controlled by Gallery Gold (Pty) Ltd ("Gallery Australia"). The ultimate parent company of the Target Enterprise is Galane Gold Ltd ("Galane Parent"), a publicly traded company incorporated in accordance with the Laws of Ontario whose shares are traded on the TSX Venture Exchange. Galane Parent is not controlled by any single shareholder or group of shareholders. In Botswana, Gallery Australia also wholly controls Galane Gold Botswana (Pty) Ltd as well as Shashe Mines (Pty) Ltd. Additionally, Gallery Australia indirectly controls 100% of The Northern Lights Exploration Company (Pty) Ltd, a limited liability company incorporated in accordance with the Laws of Botswana.

Relevant Markets

The Target Enterprise and Acquiring Enterprise are entities incorporated in Botswana. The Acquiring Enterprise is an SPV and has no operations in, into or from Botswana. On the other hand, the Target Enterprise operates a gold mining venture situated approximately 30km southeast of Francistown, North East District, Botswana. The key output/product of the Target Enterprise's operations is gold (Au) and all of the gold mined is exported to Rand Refinery Limited in South Africa, the Target Enterprise's sole client. The findings of the assessment therefore indicate that there is no overlap in the activities of the Merging Parties.

Competitive Analysis and Public Interest

In the assessment of Substantial Lessening of Competition, the proposed transaction involves the acquisition of shares by an SPV hence the Merging Parties are not active in the same market. As such, it is not likely that the proposed merger would reduce the level of competition in the relevant market in Botswana. The proposed acquisition of Mupane Gold Mining is a management buyout of an entity that was to be shut-down. Therefore, the proposed merger is unlikely to raise any competition concerns given that this is the only gold mine in the country and currently produces solely for the export market (South Africa). The Authority does not expect the proposed transaction to give rise to a Substantial Lessening of Competition; restrict trade or the provision of services; or to endanger the continuity of supplies in the mining and processing of gold ore in Botswana.

Since there are no horizontal or vertical overlaps in the activities of the Merging Parties, the structure of the relevant market will not change post-merger. Furthermore, the Acquiring Enterprise is not active in any market in Botswana therefore it will only inherit the market share of the Target Enterprise and will not attain any dominant position due to the implementation of the proposed merger. The proposed transaction will not result in a market share accretion of the merged entity or any other entity in Botswana.

In terms of Public Interest, the Authority does not foresee any detriment to matters of public interest that will arise as a result of the proposed transaction. The findings of the assessment show that the proposed transaction will not have any adverse effect on levels of employment in Botswana. No job losses are anticipated as a result of the proposed transaction. In fact, the proposed transaction enhances public interest as it promotes citizen empowerment since three (3) out of the four (4) shareholders/directors of the Acquiring Enterprise are Botswana acquiring an entity which is owned by non-citizens. Mupane Gold Mining currently employs 162 direct employees and 240 contractor employees (from locally registered companies that prioritise on hiring Botswana).

The Determination

The Authority determined through the analysis of the facts of the merger that the structure of the relevant market will not change upon implementation of the

proposed merger and the proposed transaction is not likely to result in any adverse effects on competition, nor endanger the continuity of mining and processing of gold ore in Botswana. Furthermore, the proposed merger will not have any negative effect on public interest matters in Botswana as per the provisions of section 52(2) of the Act.

Pursuant to the provision of section 53 of the Act, the Authority has unconditionally approved the proposed acquisition of 100% of the total issued share capital in Mupane Gold Mining (Pty) Ltd by Hawks Mining Company (Pty) Ltd.

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 12th day of April 2022.

Tebelelo Pule, Chief Executive Officer, Competition and Consumer Authority,
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