



MERGER DECISION NO 14: 2023

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

DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF 85% OF THE ISSUED SHARE CAPITAL OF KAVANGO ENGINEERING (PROPRIETARY) LIMITED BY INEOS AUTOMOTIVE HOLDINGS LIMITED

Introduction of the Merging Parties

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 relation to the proposed acquisition of 85% of the issued share capital of Kavango Engineering (Proprietary) Limited ("Kavango" or the "Target Enterprise") by INEOS Automotive Holdings Limited ("INEOS" or the "Acquiring Enterprise"). The proposed transaction entails INEOS acquiring majority control of Kavango. The transaction was notified to the Authority on 17th April 2023 and the merger assessment was completed on 1st June 2023.

The Acquiring Enterprise, INEOS, is a special purpose vehicle incorporated in accordance with the Laws of England and Wales for the purpose of acquiring the Target Enterprise. The Acquiring Enterprise is not controlled by nor does it control, any enterprises in Botswana. INEOS is an indirect subsidiary of INEOS Limited, incorporated in accordance with the Laws of the Isle of Man. The Target Enterprise, Kavango, is a privately owned company incorporated in accordance with the Laws of Botswana. Kavango does not control any enterprise in Botswana.

Relevant Markets

The Acquiring Enterprise INEOS does not provide any products or services in, into, or from Botswana. For completeness, the INEOS Automotive group of companies' primary business is the development and manufacturing of 4 by 4 off-road vehicles for the global market. On the other hand, the Target Enterprise's business activity is primarily vehicle engineering specialising in the modification of game viewing and safari vehicles. The Target Enterprise offers the following services:

1. Modification of new vehicles to safari and game viewing vehicles in accordance to customer specifications and requirements;
2. Spray painting and panel beating for the repair and refurbishing of safari and game viewing vehicles;
3. Steel fabrication including vehicle body protection rails, hunting frames and rear gates;
4. Manufacturing of game and safari vehicle accessories including folding tables, storage boxes, roof and spare wheel carriers, camera trays, drink holders, etc. and
5. Manufacturing of canvas covered items including vehicle and marine seats and accessories.

Competitive Analysis and Public Interest

In the assessment of Substantial Lessening of Competition, the proposed transaction involves an acquisition of shares by an entity, which is not horizontally or vertically related to the Target Enterprise. Therefore, the proposed merger is not expected to reduce the level of competition in the relevant market or any other market that exist in Botswana.

For the analysis of Acquisition of Dominance, the findings of the merger assessment indicate that the structure of the relevant market will not change post-merger since the Merging Parties are not active in the same market. As such, the proposed transaction will not result in a market share accretion of the merged entity in Botswana. The Acquiring Enterprise is a new entity and the approval of the proposed merger would only result in the acquisition of the market share of the Target Enterprise.

In terms of Public Interest considerations, the proposed transaction will not have any adverse effect on levels of employment in Botswana. No job losses are anticipated in Botswana as a result of the proposed merger. Furthermore, the proposed transaction brings direct investment into the country and it has the potential to contribute to employment creation in future as there is an opportunity for the merged entity to expand their services in terms of vehicle modification. Based on the above, the Authority does not foresee any detriment to matters of public interest that will arise as result of the proposed transaction.

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 the 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 services in the relevant market. 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 Competition Act, 2018.

Pursuant to the provision of section 53 of the Act, the Authority has unconditionally approved the proposed acquisition of 85% of the issued share capital of Kavango Engineering (Proprietary) Limited by INEOS Automotive Holdings Limited.

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 1st day of June 2023.

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