



MERGER DECISION NO 19: 2022

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

DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF 23.625% OF THE TOTAL ISSUED SHARES IN PST SALES AND DISTRIBUTION (PTY) BY IMPERIAL CAPITAL 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 23.625% of the total issued shares in PST Sales and Distribution (Pty) Ltd ["PST"] by Imperial Capital Limited ("Imperial Capital"). The transaction was notified to the Authority on 13th June 2022, and the merger assessment was completed on 5th July 2022.

The Acquiring Enterprise, Imperial Capital, is a company incorporated in accordance with the Laws of the Republic of South Africa. In Botswana, Imperial Capital has control in Fine Pharmaceuticals (Pty) Ltd; Cicoti Botswana (Pty) Ltd (deregistered); and Imperial Tankers Services (Pty) Ltd. Imperial Capital wholly owns Deep Catch Namibia Holdings (Pty) Ltd, which in turn has one subsidiary in Botswana being Seapride Foods (Pty) Ltd. Fine Pharmaceuticals provides for the import, export and wholesale distribution of pharmaceuticals, medical devices; personal care products, animal health products, and agrochemicals to pharmaceuticals and healthcare customers in Botswana. Imperial Tankers Botswana provides for both primary and secondary road transport of bulk fuel in Botswana and Seapride Foods Botswana is involved in the distribution of both temperature controlled and ambient food products in Botswana.

The Target Enterprise, PST, is a private company incorporated in accordance with the Laws of the Republic of Botswana. PST is owned at 43.25% by Imperial Capital (the Acquiring Enterprise); and the remaining shares are held by Autash Arora; Imraan Ismail Makda; and Sachin Lonial. PST is a 100% shareholder and a holding company for Global Holdings (Botswana) [Pty] Ltd ("GHB"). GHB is the operating entity involved in the sale and distribution of Fast Moving Consumer Goods ("FMCG") products. GHB also is engaged in the supply chain warehousing, distribution, sales and merchandising, debtors and administration and information services in respect of perishable and ambient FMCG products to customers in Botswana. GHB participates in almost every category of the FMCG industry, from food and beverages to confectionary, baby care and pet products. The Target enterprise offers supply chain management, sales and branding and financial and administrative management services to its clients.

Relevant Markets

In terms of the relevant markets, Imperial Tankers Botswana provides for both primary and secondary road transport of bulk fuel in Botswana and Seapride Foods Botswana is involved in the distribution of both temperature controlled and ambient food products in

Botswana. The target enterprise is involved in the provision of cold chain and non-temperature controlled supply chain warehousing and distribution, sales and merchandising, debtors and administration and ambient fast moving consumer goods to customers in Botswana. The proposed merger indicates that the relevant product market is mainly the distribution of FMCG products in Botswana.

The assessment reveals a vertical relationship in that the acquiring enterprise already has over 43% share interests in the target. However, there is no horizontal overlap in the activities of the Merging Parties in Botswana and as such, the implementation of the Proposed Merger will not result in any market share change.

Competitive Analysis and Public Interest

The Authority's assessment reveals that the structure of the relevant market will not change upon the implementation of the proposed merger as it is an increase in shareholding by an existing shareholder. Therefore, the proposed transaction is not likely to result in any adverse effects on competition, nor endanger the continuity of services in the relevant markets.

The Determination

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 2018.

Pursuant to the provision of section 53 of the Act, the Authority has decided to *unconditionally approve* the proposed acquisition of 23.625% of the total issued shares in PST Sales and Distribution (Pty) Ltd by Imperial Capital 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 5th day of July 2022.

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