



MERGER DECISION NO 20: 2022

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

DECISION ON THE PROPOSED ACQUISITION OF A CERTAIN IMMOVABLE PROPERTY, BEING PLOT 28580, GABORONE WEST INDUSTRIAL, GABORONE, FROM AR INVESTMENTS (PTY) LTD BY MERCURY CAPITAL (PTY) LTD

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 a certain immovable property, being Plot 28580, Gaborone West Industrial, Gaborone, from AR Investments (Pty) Ltd [“AR Investments”] by Mercury Capital (Pty) Ltd [“Mercury Capital”]. The transaction was notified to the Authority on 13th June 2022, and the merger assessment was completed on 6th July 2022.
- ii. The Acquiring Enterprise, Mercury Capital, is a company registered in terms of the Laws of the Republic of Botswana. Mercury Capital is wholly controlled by Shiela Tiego Botshwaranye, a Motswana. Mercury Capital does not control any firm. Mercury Capital is involved in the business of contract cleaning.
- iii. The Target Enterprise, AR Investment, is a company registered in terms of the Laws of the Republic of Botswana. AR Investments is controlled by Mmonesi Aryl Ralebala and Matshidiso Ralebala (both Batswana). AR Investments does not control any firm. AR Investments is involved in the business of property development, and one of its properties includes the immovable Property being sold, Plot 28589, Gaborone West Industrial, Gaborone (The Proposed Transaction). The Property being sold is zoned for industrial purpose; and is currently used as a warehouse, comprising of eight (8) units. Each unit comprises of a reception, workshop, male and female toilet facilities and office space. These units are leased out to tenants.

Relevant Markets

- iv. In terms of the relevant markets, the Acquiring Enterprise is involved in the business of contract cleaning while the target is involved in the business of property development. From the description of the activities of the Parties it can be concluded that there is absence of product overlap in the Transaction at hand; and as such, the status quo is expected to be maintained post implementation. The Authority does not envisage the Proposed Transaction to likely result in a substantial

lessening of competition, nor endanger the continuity of service, in the relevant market in Botswana.

Competitive Analysis and Public Interest

- v. The Authority's assessment reveals 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 in the relevant market in Botswana.

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 2018.
- vii. Pursuant to the provision of section 53 of the Competition Act, the Authority has decided to *unconditionally approve* the proposed acquisition of a certain immovable property, being Plot 28580, Gaborone West Industrial, Gaborone, from AR Investments (Pty) Ltd by Mercury Capital (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 6th 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