

**MERGER DECISION NO 28: 2022****DECISION ON THE PROPOSED ACQUISITION OF SALE ASSETS OF HUNGRY LION BOTSWANA PROPRIETARY LIMITED BY QUEENS PROPRIETARY LIMITED IN ONE INDIVISIBLE TRANSACTION AS A GOING CONCERN.****Introduction of the Merging Parties**

- i. 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 respect of the proposed acquisition of sale assets of Hungry Lion Botswana Proprietary Limited ("HL Botswana") by Queens Proprietary Limited ("Queens") in one indivisible transaction as a going concern. The transaction was notified to the Authority on 10<sup>th</sup> June 2022 and the merger assessment was completed on 26<sup>th</sup> August 2022.
- ii. The Acquiring Enterprise, Queens, is a company registered in terms of the Laws of the Republic of Botswana. The Acquiring Enterprise is controlled by Abdul Karrim Kader, Mumtaz Banoo Kader and Jamaluddin Kader (Batswana). In turn, the Acquiring Enterprise does not control any firm. Queens Proprietary Limited operates 9 (nine) Hungry Lion franchise stores in Botswana. Amongst other items, chicken, chips and burgers are the key items sold.
- iii. The Sale Assets that are the subject of this transaction include: (i) 2 (two) Hungry Lion fast food outlets located in Francistown and Gaborone, (ii) the stock and (iii) the goodwill attached to the business conducted at the outlets. The Sale Assets are currently owned and controlled by HL Botswana. HL Botswana is registered in terms of the Laws of the Republic of Botswana and is a franchisor of the Hungry Lion quick service restaurant (QSR) franchise. The Hungry Lion QSR provides chicken meals with a limited array of beverages, side dishes such as chips and salads, and sweets.

**Relevant Markets**

- iv. Both Merging Parties trade as Hungry Lion. However, HL Botswana is a franchisor of the Hungry Lion QSR franchise, franchised stores and/or owner operated outlets. HL Botswana operates two (2) Hungry Lion outlets situated in Gaborone and Francistown.
- v. Queens is the only franchisee and operator of the 9 (nine) Hungry Lion Fast- Food QSRs situated at: Gaborone Bus Rank, Mogoditshane; Mochudi; Mahalapye; Palapye; Serowe; Letlhakane; Maun; and Kazungula

## **Competitive Analysis and Public Interest**

- vi. The Authority has not established any substantial lessening of competition concerns arising from the merger due to existence of enough rivalry in the Fast- Food QSR market. Furthermore, there is no acquisition of market dominance post-merger. However, the merger raises public interest matters that need to be addressed.

## **The Determination**

- vii. Pursuant to the provision of Section 53 of the Competition Act, the Authority has decided to approve the proposed acquisition of sale assets of Hungry Lion Botswana Proprietary Limited by Queens Proprietary Limited in one indivisible transaction as a going concern with the following conditions:
  - a) Queens Proprietary Limited obtains the Trading License of the Gaborone based Hungry Lion outlet currently controlled by HL Botswana within 30 working days from the decision date.
  - b) Hungry Lion Botswana Proprietary Limited employees who decide not transfer to Queens Property Limited are paid their full terminal benefits;
  - c) There will be no merger specific retrenchments for a period of three (3) years from the date of implementation. For clarity, merger specific retrenchments or redundancies do not include:
    - i. voluntary retrenchment and/or voluntary separation arrangements;
    - ii. voluntary early retirement packages;
    - iii. unreasonable refusals to be redeployed;
    - iv. resignations or retirements in the ordinary course of business;
    - v. retrenchments lawfully effected for operational requirements unrelated to the Merger; and
    - vi. terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.
  - d) Hungry Lion Botswana Proprietary Limited must circulate a copy of these conditions to all their employees within 7 days from the date of approval.
  - e) Queens Proprietary Limited must revert to the Authority within 6 (six) months from the date of approval with a status report regarding the above mentioned conditions.

- viii. 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 26<sup>th</sup> day of August 2022.

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