



## MERGER DECISION NO 42: 2021

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

#### THE PROPOSED ACQUISITION OF 100% ISSUED SHARE CAPITAL IN ALVITA (PTY) LTD FROM N.K.M INVEST APS BY 3S WILDLIFE FARM GMBH & CO. KG

##### 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 100% issued share capital in Alvita (Pty) Ltd ("Alvita") from N.K.M Invest ApS by 3S Wildlife Farm Gmbh & Co. KG ("3S Wildlife Farm"). The transaction was notified to the Authority on 29<sup>th</sup> September 2021 and the merger assessment was completed on 22<sup>nd</sup> October 2021.
- ii. The Acquirer, 3S Wildlife Farm, is a limited partnership company incorporated in accordance with the Laws of Germany. The Acquirer is directly controlled by 5th Dimension Investment GmbH. However, 3S Wildlife Farm does not directly or indirectly control any firm. Currently 3S Wildlife Farm does not have any business activities in Botswana.
- iii. The Target Enterprise, Alvita, is a company incorporated under the Laws of Republic of Botswana. Alvita is owned by N.K.M. Invest ApS which is in turn controlled by Max Moller (a Danish citizen). Alvita directly controls Bow Lane Investments (Pty) Ltd. Alvita have business activities in Botswana, Tuli-Block via its subsidiary Bow Lane Investments (Pty) Ltd which is engaged in lodging services. Lodging services encompass safari, hunting, and tourism, including bar, food, accommodation and meat.

##### Relevant Markets

- iv. In terms of the relevant market, it suffices to note that 3S Wildlife Farm presently does not supply any products or render any services in Botswana. On the other hand, Alvita does not offer any products and services into or from Botswana but only conducts business activities via its subsidiary Bow Lane Investments (Pty) Ltd which is in the business of the provision of lodging services.

- v. Due to the absence of both product and geographical overlaps in the activities of the merging parties, the Authority maintains that it is not necessary to reach a definitive view on the exact scope of the product market as the market structure is not expected to change post implementation of the proposed transaction.

### **Competitive Analysis and Public Interest**

- vi. In the assessment of Substantial Lessening of Competition, the Authority discovered that the transaction assessed is not expected to substantially lessen competition due to the absence of product overlap in the activities of the merging parties. The merger is not expected to result in the reduction of the number of players in the market, hence will not affect the current structure of the market under consideration.
- vii. In terms of the Acquisition of a Dominant Position, the merged entity will not attain any dominant position on account of the transaction due to the absence of product overlap. Furthermore, the transaction is not expected to accrete nor decrease the market shares of the parties involved in this transaction; neither would it impact on rivalry nor harm consumers.
- viii. With regards to Public Interest Considerations, the merger assessment findings did not reveal any detriment to matters of public interest that will arise as result of the transaction under consideration.

### **The Determination**

- ix. 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, 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.
- x. Pursuant to the provision of section 53 of the Act, the Authority has unconditionally approved the proposed acquisition of 100% issued share capital in Alvita (Pty) Ltd from N.K.M Invest ApS by 3S Wildlife Farm Gmbh & Co. KG.

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 22<sup>nd</sup> day of October 2021.

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