

MERGER DECISION NO 47 OF 2023

DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF LEASE AREA NO. 4928-KO PLOT 54373, CENTRAL BUSINESS DISTRICT, GABORONE ON BEHALF OF BOTSWANA PUBLIC OFFICERS PENSION FUND, FROM OWLEY PROPERTIES (PTY) LTD BY SEVENTY5 DEGREES (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 the lease area No. 4928-KO Plot 54373, Central Business District, Gaborone on behalf of Botswana Public Officers Pension Fund ("BPOPF"), from Owley Properties (Pty) Ltd ("Owley or the Target Enterprise") by Seventy5 Degrees (Pty) Ltd ["Seventy5 or the Acquiring Enterprise"]. The Transaction was notified to the Authority on 20th October 2023, and the merger assessment was completed on 27th November 2023.
- ii. The Acquiring Enterprise, Seventy5, is a private company incorporated in accordance with the Laws of Botswana. It is a newly established company duly appointed as the property asset manager of the BPOPF and makes the acquisition for and on behalf of BPOPF.
- iii. The Target Enterprise, Owley, is a private limited company incorporated in accordance with the Laws of Botswana. It is wholly controlled by Owley Ltd, a company incorporated under the Laws of Seychelles.

Relevant Market

- iv. The Acquiring Enterprise is a newly established company duly appointed property asset manager, set up to acquire properties and/or assets for and on behalf of BPOPF. The acquired properties will then be leased to businesses for rental income. On the other hand, the Target Enterprise operates in the real estate market through leasing out commercial space. Currently, it only owns the lease area No. 4928-KO Plot 54373, CBD, Gaborone (*the proposed transaction*) under its property portfolio.
- v. It should be noted that the Acquiring Enterprise is acquiring several immovable assets from different sellers spread all over the country concurrently. It can be concluded that the Acquirer is a new entrant in the

market for commercial property leasing in Botswana. In this regard, the Proposed Transaction will give rise to a horizontal overlap post-merger. However, the relevant market is characterised by myriad players both at individual and company levels who will pose competitive constraints to the merged entity post-merger. As such, the Authority does not anticipate any competition concerns to arise in the relevant market as a result of the Proposed Transaction.

Competitive Analysis and Public Interest

- vi. The Authority has established that the Proposed Transaction is not likely to result in a substantial lessening of competition, nor endanger the continuity of service in the market of leasing out commercial space in real estate. 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.

The Determination

- vii. Pursuant to the provision of Section 53 of the Competition Act, 2018, the Authority has decided to unconditionally approve the proposed acquisition of lease area No. 4928-KO Plot 54373, Central Business District, Gaborone on behalf of Botswana Public Officers Pension Fund, from Owley Properties (Pty) Ltd by Seventy5 Degrees (Pty) Ltd.
- 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 this 28th day of November 2023.

Tebelelo Pule, Chief Executive Officer, Competition and Consumer Authority,
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