



MERGER DECISION NO 24: 2023

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

DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF LOT 50380 GABORONE FROM LETLOLE LA RONA LIMITED BY SHINING SUN INVESTMENTS (PTY) LTD

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 Lot 50380 Gaborone (the "Target Property") from Letlole La Rona Limited ("LLR" or the "Target Enterprise") by Shining Sun Investments (Pty) Ltd ("Shining Sun" or the "Acquiring Enterprise"). The proposed transaction concerns the acquisition of an asset of the Target Enterprise and does not have any effect on the shareholding of LLR. The transaction was notified to the Authority on 31st May 2023 and the merger assessment was completed on 22nd June 2023.

The Acquiring Enterprise is a Special Purpose Vehicle (SPV) incorporated in accordance with the Laws of Botswana on the 13th of December 2022 for the purpose of the proposed merger. The Acquiring Enterprise does not control any entity in Botswana. On the other hand, LLR is a company registered in accordance with the Laws of Botswana and it is listed on Botswana Stock Exchange (BSE). LLR is controlled by two major unit holders which is Botswana Development Corporation (BDC) and Botswana Public Officers Pension Fund (BPOPF).

Relevant Markets

The Merging Parties are companies duly incorporated in accordance in Botswana. The findings of the assessment indicate that the Acquiring Enterprise is a newly established entity, incorporated for the purpose of acquiring the Target Property. Therefore, it currently, does not provide any products or services in Botswana nor does it derive any income in, into or from Botswana. On the other hand, LLR controls amongst others the Target Property, and has interests in other business enterprises in the property development sector such as JTTM Properties (Pty) Ltd, a limited liability company registered in accordance with the Laws of Botswana, and NBC Partnership which is an unincorporated joint venture.

For completeness, LLR's main business activity is real estate investment in Botswana. It owns immovable properties in Botswana inclusive of industrial properties, commercial office spaces, retail spaces and residential spaces and it derives income primarily from rentals and property instruments. Based on the aforementioned, it is clear that there is no product overlap in the activities of the Merging Parties.

Competitive Analysis and Public Interest

In the assessment of Substantial Lessening of Competition, the investigation has revealed no product overlap in the activities of the Merging Parties since the Acquiring Enterprise does not currently provide any goods or services and will be a new entrant in the relevant market. The transaction under assessment is not expected to substantially lessen competition or restrict trade or endanger the continuity of supplies in the relevant market or in any market in Botswana.

For the analysis of Acquisition of Dominance, the approval of the proposed transaction is not expected to result in an acquisition of a dominant position by the merged entity or by any enterprise in Botswana. Thus, the implementation of the proposed merger will not result in the Merged Enterprise attaining a 25% market share which is a threshold for dominance. Furthermore, there are numerous well-established players including local and multinational companies which will be available as alternative sources of supply to consumers and will continue to discipline the competitive behaviour of the Merged Enterprise post-merger. In terms of Public Interest considerations, the Authority does not anticipate any public interest concerns to arise as a result of the implementation of the proposed merger.

The Determination

The Authority determined through the analysis of the facts of the merger that the structure of the relevant market is not expected to significantly change upon the implementation of the proposed merger as the proposed transaction is not likely to result in a substantial lessening of competition, nor endanger the continuity of service in the market under consideration. 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.

Pursuant to the provision of section 53 of the Act, the Authority has decided to unconditionally approve the proposed acquisition of Lot 50380 Gaborone from Letlole La Rona Limited by Shining Sun Investments (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 22nd day of June 2023.

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