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PRESS RELEASE

Competition Authority Agrees on Remedial Actions that are in the Best Interest of Independent Retailers and Consumers

In July 2017 the Competition Authority of Botswana queried the Banner Group model operated by Trident Holdings (Trident) following a competitive analysis of the Wholesale and Retail sector in Botswana that the Competition Authority (Authority) conducted in 2013. When assessing the Wholesale and Retail sector in Botswana, the Competition Authority was of the view that retail price maintenance agreements could be a common place in the wholesale and retail sector. Price maintenance is an agreement between a wholesaler and a retailer not to sell a commodity or product below a specified price. The Authority carried out a number of competition analyses. One of the analysis carried out involved Trident Wholesalers.

Trident acts as a wholesaler of grocery products and general merchandise to independent retailers throughout Botswana. It operates Banner Groups under the trade brand names Big 11, Fair Price and Saverite in which Banner Group members participate on a voluntary basis in monthly promotional activities undertaken under each Banner Group. In addition to the extensive trade and retail support that Trident offers to about 500 (five hundred) independent retailers on its Banner Group member base, it has been able to offer highly competitive prices to these local retailers throughout Botswana by means of group purchasing power and supply chain management. An important tool of the Banner Group model involves the use of monthly promotions in which Trident and Banner Group members jointly advertise promotional products in promotional pamphlets produced by Trident at a nominal cost to the members.

The Competition Authority was concerned that through the use of the aforesaid pamphlets, Trident had engaged in anti-competitive conduct in the form of resale price maintenance in contravention of section 26(1) of the Competition Act (CAP 46:09).

After extensive engagement with Trident and further assessment of the complaint, the Competition Authority concluded that whilst the Trident Banner Group model does not strictly comply with the provisions of section 26(1) of the Competition Act, it serves a useful purpose to support the growth of local small independent retailers so that they are able to compete with large corporate retailers. The Authority further recognised that “without the support from Trident, the Banner Group Members would perish because they face competition from retailers from other banner groups.”

Accordingly, the Competition Authority has directed Trident to undertake remedial steps in relation to future conduct to ensure strict compliance with the Competition Act. These measures include Trident's undertaking to:

1. Increase the awareness of Banner Group Members in relation to their rights and obligations under the banner group arrangement leveraging the monthly members meetings and annual satisfaction survey, and through regular training on competition law;
2. Ensure that printed promotional pamphlets for Banner Group Members bear the words “recommended prices” on every page of the pamphlet;
3. Provide clear written communication to every existing and new Banner Group Member of the flexibility to sell products at any other price besides the minimum recommended price;
4. Ensure that there is no perceived or actual threat of expulsion from the Banner Group, or termination of the agreement where a Banner Group Member chooses to sell at any price other than the recommended price;
5. Introduce regular and increased levels of communication to both Banner Group Members and customers, informing them of the Trident banner group promotions of select products/commodities at recommended discounted prices; and
6. Formalise Banner Group Member engagement through a structured programme including but not limited to initiatives that provide training, merchandising, marketing and store support.

In agreeing with these and other related remedial actions the Competition Authority notes that Trident's intention “was always to keep the general dealers afloat amid competition from the chain stores.”

Commenting on behalf of Trident Brian Leroni said “We are happy with the outcome of this constructive engagement with the Competition Authority which has resulted in an agreement that is in the best interests of both independent retailers and consumers.”

For her part the Competition Authority Chief Executive Officer, Ms Tebelelo lauded the constructive outcome as the best way to restore competition in a sector that serves the vast majority of the rural and marginalised population of the country.

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