

Notice in terms of Section 60(4)(a)(ii) of the Competition Act

DECISION ON THE PROPOSED ACQUISITION OF THE ENTIRE ISSUED SHARE CAPITAL OF TOSAS BOTSWANA (PTY) LTD BY RAUBEX GROUP LIMITED

PURSUANT to Section 60(4)(a)(ii) of the Competition Act, notice is hereby given on the decision made by the Competition Authority in respect of the proposed acquisition of the entire issued share capital of Tosas Botswana (Pty) Ltd by Raubex Group Limited.

The Authority determined to authorise the proposed transaction on the grounds that the analysis of the facts of the merger assessment showed that there were no substantive competition concerns that arise in the manufacturing and distribution of value-added bituminous products market in Botswana, on account of the acquisition of the entire issued share capital of Tosas Botswana (Pty) Ltd by Raubex Group Limited.

The Authority also took cognisance of the fact that:

1. Though there is a vertical relationship between the activities of Tosas Botswana and Raubex Group Limited, the proposed transaction is not likely to result in a substantial lessening of competition, nor endanger the continuity of supplies or services, due to the absence of geographical overlap between the activities of the merging parties;
2. The market share of the merged entity in the manufacturing and distribution of value-added bituminous products market in Botswana is estimated above the 25% dominance threshold as set in the Competition Regulations, but that is not on account of the merger. In addition, there is no established track record of abuse of dominant market power in this market to warrant a threat of abuse of dominance post transaction implementation, as defined under Section 2 of the Competition Act (Cap 46:09); and
3. No significant negative effect on public interest in Botswana has been identified, in relation to the provisions of Section 59 (2).

Pursuant to the provisions of Section 55 of the Competition Act, the Authority has approved the proposed merger with an optimism that in the future, the merged entity would consider opening up the roads construction and rehabilitation division in Botswana which will also lead to the expansion of industrialisation in the country.

As provided for under Section 66 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 13th day of March, 2013.

Thula Kaira, CEO, Competition Authority, P/Bag 00101, Gaborone, Plot 50664,
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