

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

### **ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS OF CERTAIN OVER-THE-COUNTER PRODUCTS OF GLAXOSMITHKLINE PLC BY ASPEN PHARMACARE HOLDINGS 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 intellectual property rights of certain over-the-counter (OTC) products of GlaxoSmithKline PLC (GSK) by Aspen Pharmacare Holdings (Aspen).

The Authority determined to authorise the proposed transaction on the grounds that the analysis of the facts of the merger showed that there were no substantive competition concerns that will arise in the OTC pharmaceutical product markets, on account of the proposed transaction in Botswana, given the fact that:

- i. the proposed transaction is not likely to result in a substantial lessening of competition, nor endanger the continuity of the service, due to the fact that the existence of post-merger competitive constraints which will be imposed by other players in the pharmaceutical market would help to ensure that business rivalry is maintained to govern the commercial behaviour of the acquiring firm;
- ii. the acquiring firm does not possess any market dominance and consequently no threat of abuse of dominant market power is anticipated, post transaction implementation, as defined under Section 2 of the Competition Act (Cap 46:09); and
- iii. 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 acquisition of intellectual property rights of certain OTC products of GSK by Aspen.

However, as stated 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 22<sup>nd</sup> day of February, 2013

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