

MERGER DECISION NO 03: 2021

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

DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF SHAMIZ (PTY) LTD BY NALAMALAPU ANJI REDDY

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 the entire issued share capital of Shamiz (Pty) Ltd ("Shamiz" or "the Target Enterprise") by Nalamalapu Anji Reddy ("Nalamalapu" or "the Acquiring Enterprise"). The transaction was notified to the Authority on 14th December 2020 and the merger assessment was completed on 12th January 2021.

The Acquiring Enterprise, Nalamalapu, is an adult Motswana male of full legal capacity trading as a business man with numerous other petrol filling and service stations. Furthermore, the Target Enterprise, Shamiz is a limited liability company incorporated in accordance with the Laws of Botswana. The Target Enterprise is wholly owned by Kitso Motshidisi and Christian Paladze in equal shares. According to the Merging Parties' submissions, Shamiz does not directly or indirectly control any enterprise in Botswana. The Target Enterprise operates a Total branded retail petrol filling and service station in Village, Gaborone and sells its products to the general public.

Relevant Markets

In terms of the relevant market, the assessment of the proposed transaction revealed that the Oil sector comprises of various segments namely: Production (refining of crude oil); Distribution (wholesale of fuels); and Petrol station markets (retail of fuels). Trading as a business man, the Acquirer has interests in numerous other petrol filling and service stations. On the other hand, the Target Enterprise, Shamiz operates a Total branded retail petrol filling and service station in Village-Gaborone, and sells its products to the general public. The investigation findings established a horizontal overlap in the products offered by the Merging Parties as they are both active in the fuel retail market.

Therefore, for purposes of analysing the proposed transaction, and in view of the nature of the products and services offered by the Merging Parties, the Authority determined the relevant product market to be the *fuel retail market*. The geographical market is Gaborone.

Competitive Analysis and Public Interest

In the assessment of Substantial Lessening of Competition, the Authority discovered that there exist an overlap in the products offered by the Merging Parties as they are both active in the fuel retail market.

However by its nature, the market under consideration is highly fragmented with multiple participants, therefore the merged entity will face strong competition from well established players in the market. In this regard, the Authority does not expect that the Substantial Lessening of Competition established in the proposed transaction would significantly impede competition; restrict trade or the provision of services; or endanger the continuity of supplies in the relevant market or in any market in Botswana.

The analysis further indicate that the proposed merger will not result in Acquisition of a Dominant Position by the merged entity or by any enterprise in the Botswana post-merger. There are a lot of fuel petrol service stations everywhere in Gaborone. Additionally, the Acquirer is only entitled to a controlling stake in one (1) fuel filling station in Botswana Pre-merger. Therefore the Authority does not foresee an acquisition of a dominant position in the market under consideration or any other market on account of the proposed transaction.

With regards to Public Interest Considerations, the merger assessment findings did not reveal any detriment to matters of public interest that will arise as result of the transaction under consideration. No job losses are anticipated in Botswana as a result of the proposed transaction. The Acquirer is a Citizen of Botswana and therefore the proposed acquisition promotes Citizen Empowerment.

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 and the proposed transaction is not likely to result in any adverse effects on competition, nor endanger the continuity of services in the relevant market in Gaborone. 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 unconditionally approved the proposed acquisition of Shamiz (Pty) Ltd by Nalamalapu Anji Reddy.

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 12th day of January 2021.

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