



MERGER DECISION NO 08: 2024

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

MERGER DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF 51% SHAREHOLDING IN JACKSTANDS PROJECTS (PTY) LTD BY VPB HOLDINGS (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 51% shareholding in Jackstands Projects (Pty) Ltd T/A Olspa Botswana ("Jackstands Projects" or "Olspa Botswana" or the "Target Enterprise") by VPB Holdings (Pty) Ltd ("VPB Holdings" or the "Acquiring Enterprise"). Following the implementation of the proposed transaction, VPB Holdings will acquire an additional 51% shareholding in Jackstands Projects that is currently held by Olspa Vervoer (Pty) Ltd ("Olspa Vervoer") and will therefore have an 81% stake in the Target Enterprise. The transaction was notified to the Authority on the 20th February 2024 and the merger assessment was completed on 22nd March 2024.

The Acquiring Enterprise is a company incorporated in accordance with the Laws of Botswana. The current shareholders of VPB Holdings are AMS Holdings (Pty) Ltd and Ms. Bontle Lucy Letshwiti (Motswana) who control 83% and 17% shares respectively. AMS Holdings is a company incorporated in accordance with the Laws of Botswana and is 100% owned by Ms. Gorata Iwani Siwawa (Motswana). VPB Holdings owns 30% shares in the Target Enterprise.

On the other hand, the Target Enterprise Jackstands Projects is a company incorporated in accordance with the Laws of Botswana. Jackstands Projects is controlled by Olspa Vervoer (51%), VPB Holdings (30%) and Melanie Leigh Masson (19%). Olspa Vervoer is a company incorporated with the Laws of South Africa. Jackstands Projects does not control any entities in Botswana.

Relevant Markets

In terms of the activities of the Merging Parties, the Acquiring Enterprise is an investment holding company and currently only holds 30% in the Target Enterprise, therefore, it does not directly sell or provide any other services. On the other hand, the Target Enterprise's main business activity is fuel transport and logistics. Olspa Botswana transports Diesel 50, ULP93 and ULP95 in and into Botswana for Puma Energy Botswana and Sasol Oil. The Target Enterprise supplies its services in Gaborone and surrounding areas, with a majority of the product being offloaded in the South of Botswana.

The assessment therefore indicates that the Acquiring Enterprise already has business interests in the Target Enterprise as it is a shareholder in the target entity. As already noted above, VPB Holdings currently owns 30% shares in the Target Enterprise and will be increasing its shareholding to 81% post-merger.

Furthermore, the assessment findings have revealed that there are active alternative service providers available within the fuel transport and logistics industry in Botswana. The market includes other players such as Unitrans, Transport Holdings, XCCS and Crossroads amongst others, which will continue to offer choice to consumers and provide competitive pressure on the merged entity. The numerous players in the market detailed above compete for contracts to supply their services to the different customers. It is therefore safe to conclude that the fuel transport and logistics industry in Botswana is highly competitive and it is characterised by a number of players in the market. As such, the merged enterprise is expected to face strong competition from the above-mentioned well-established players who are engaged in fuel transport and logistics.

Competitive Analysis and Public Interest

In the assessment of Substantial Lessening of Competition, the investigations have revealed that the Acquiring Enterprise has business interests in the Target Enterprise as a shareholder, with no other business activities in Botswana. It is therefore merely increasing its shareholding to acquire a total of 81% control in the Target Enterprise. The Authority therefore does not anticipate the acquisition to result in any substantial lessening of competition post implementation due to the fact that there exists other fuel transport and logistics service providers in Botswana that will continue to compete with the Merged Enterprise, post-merger.

For the analysis of Acquisition of Dominance, it is important to emphasise that a dominant position in the context of section 2 of the Competition Act 2018, refers to a situation in which one or more enterprises possess such economic strength in a market as to allow the enterprise or enterprises to adjust prices or output without effective constraint from competitors or potential competitors.

As such, the implementation of the proposed merger is not expected to result in the acquisition of a dominant position in the relevant market in Botswana as the market share of the Target Enterprise will remain the same post-merger. The proposed transaction constitutes an internal shareholding restructuring as the Acquiring Enterprise will only assume an additional 51% shares currently owned by Olspa Vervoer in the Target Enterprise. In addition, the fuel transport and logistics industry in Botswana is highly competitive and characterised by a number of players in the market who will continue to provide competitive pressure on the Merged Enterprise post-merger.

In terms of Public Interest considerations, the Authority does not foresee any detriment to matters of public interest that will arise as a result of the transaction under consideration. No job losses are anticipated in Botswana as a result of the proposed merger. For completeness, there will be no staff restructuring or loss of employment. All current employees will retain their current jobs and positions.

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 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 51% shareholding in Jackstands Projects (Pty) Ltd T/A Olspa Botswana by VPB Holdings (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 March 2024.

Tebelelo Pule, Chief Executive Officer, Competition and Consumer Authority,
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