



## MERGER DECISION NO 11: 2021

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

#### **DECISION ON THE PROPOSED SALE AND PURCHASE OF AN IMMOVABLE PROPERTY BEING A PORTION OF LOT 903, TOWN CENTRE (TATI RIVER MALL), FRANCISTOWN FROM THE FAR PROPERTY COMPANY LTD BY GABORONE ACADEMY OF LAW (PTY) LTD T/A GABORONE UNIVERSITY COLLEGE OF LAW AND PROFESSIONAL STUDIES**

#### **Introduction of the Merging Parties**

- i. 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 respect of the proposed sale and purchase of an immovable property being a portion of Lot 903, Town Centre (Tati River Mall), Francistown from The Far Property Company Ltd by Gaborone Academy of Law (Pty) Ltd t/a Gaborone University College of Law and Professional Studies. The transaction was notified to The Authority on 27<sup>th</sup> January 2021 and the merger assessment was completed on 23<sup>rd</sup> February 2021.
- ii. The Acquiring Enterprise, Gaborone Academy of Law, is company incorporated in accordance with the Laws of Botswana. Gaborone Academy of Law operates as a private tertiary institution offering courses from certificate level to Masters Level; with branches in Gaborone, Mmopane and Francistown.
- iii. The Selling Enterprise, The Far Property, is a public company listed on the Botswana Stock Exchange. The Far Property, is a real estate development and asset company and owns properties in Botswana, South Africa and Zambia, the majority of them being warehouses and shopping centres.

#### **Relevant Markets**

- i. In terms of the relevant market, the assessment of the proposed transaction revealed that the Acquiring Enterprise operates as a private tertiary institution offering courses from certificate level to Masters Level; with branches in Gaborone, Mmopane and Francistown. On the flip side, the Selling Entity is a real estate development and asset company and owns properties in Botswana, South Africa and Zambia.

- ii. From the description of the activities of the Parties it can be concluded that there is absence of product overlap in the transaction at hand; and as such, the status quo is expected to be maintained post implementation.  
The Authority does not envisage the proposed transaction to likely result in substantial lessening of competition, nor endanger the continuity of service, in the relevant market in Botswana.

### **Competitive Analysis and Public Interest**

- i. The Authority's assessment did not reveal any substantial lessening of competition concerns that would arise as result of the proposed transaction; and the Acquiring Enterprise is not expected to attain any dominant position post-merger due to lack of product overlap in the activities of the Parties.

### **The Determination**

- i. The Authority determined through the analysis of the facts of the merger, that the proposed transaction is not likely to result in substantial lessening of competition, nor endanger the continuity of service, in the relevant market in Botswana. Furthermore, there is no acquisition of market dominance post-merger; nor any negative effect on public interest in Botswana identified, in relation to the provisions of section 52 of the Competition Act 2018.
- ii. Pursuant to the provision of section 53 of the Competition Act, the Authority has unconditionally approved the proposed sale and purchase of an immovable property being a portion of Lot 903, Town Centre (Tati River Mall), Francistown from The Far Property Company Ltd by Gaborone Academy of Law (Pty) Ltd t/a Gaborone University College of Law and Professional Studies.

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 23<sup>rd</sup> day of February 2021.

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