



MERGER DECISION NO 15: 2019

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

DECISION ON THE PROPOSED ACQUISITION OF 50% ISSUED SHARES IN DENNIS SERVICE STATION (1976) (PTY) LTD FROM GAVIN BLACKBEARD BY NGAMI MOTORS (PTY) LTD.

PURSUANT to section 60(4)(a)(ii) of the Competition Act (Cap 46:09), notice is hereby given on the decision made by the Competition Authority ("the Authority") in respect of the proposed acquisition of 50% issued shares in Dennis Service Station (1976) Pty) Ltd from Gavin Blackbeard by Ngami Motors (Pty) Ltd.

The Authority determined through the analysis of the facts of this merger that there are no substantive competition concerns that will arise in all the markets under consideration, namely: new vehicle sales; used vehicle sales; motor parts sales; and service centre, given the fact that:

- i. The proposed transaction is not likely to result in substantial lessening of competition, nor endanger the continuity of service; and
- ii. Similarly, the implementation of the proposed merger is not expected to result in Dennis Service Station attaining a dominant position, as the transaction is not expected to affect the current market structure.

However, it is noted that the proposed acquisition gives rise to public interest concerns under section 59(2)(f) of the Competition Act in that the merger entails the transfer of shares previously held by a citizen to a foreign owned entity. According to the Ministry of Investment, Trade and Industry, the operation of petroleum products through filling stations is reserved for citizens of Botswana through the Trade Act, 2003 while the wholesale distribution of petroleum is not reserved.

Taking the public interest concerns and pursuant to the provisions of section 60 of the Competition Act of Botswana, the Authority has approved the proposed acquisition with the conditions that:

- i. The merged entity should ensure that the shareholding in the business of Dennis Caltex Service Station is 51% and 49% for citizen(s) and non-citizen(s) respectively, as per the Trade Act of 2003;
- ii. Halfway Ngami Toyota concludes the ongoing process of transferring 10% of its shares to a local citizen; not later than six (6) months from the decision date; and
- iii. The merging parties are to provide the Authority with a status update on compliance towards this decision within six (6) months from the date of this determination.

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 this 12th day of April 2019.

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