

## **MERGER DECISION NO 37 OF 2022**

### **DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF THE REMAINDER OF THE FARM 40-NK NAMED IVY SITUATED AT THE GHANZI DISTRICT FROM TUELO (PTY) LTD BY LAMBERTUS JOHANNES VORSTER**

#### **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 of remainder of the Farm 40-NK named Ivy (“The Target Asset”) situated at the Ghanzi District from Tuelo (Pty) Ltd by Lambertus Johannes Vorster (“Mr Vorster”). The transaction was notified to the Authority on 22<sup>nd</sup> September 2022, and the merger assessment was completed on 14<sup>th</sup> October 2022.

The Acquirer, Mr Voster, is a citizen of Botswana. Mr Vorster is a cattle farmer and a property investor. The Target Assets, is wholly owned by Tuelo (Pty) Ltd, a company incorporated in accordance with the Laws of the Republic of Botswana. Tuelo (Pty) Ltd is a property investment company.

#### **Relevant Markets**

In terms of the relevant markets, the assessment of the proposed transaction has revealed that the parties to the merger both own agricultural or farming land in the Ghanzi District. Furthermore, the Target Assets are classified as freehold agricultural or farming land. The relevant market is therefore defined as the market for property investment in the agricultural sector at the Ghanzi District.

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

Although there exists overlap in the activities of the merging parties, the Authority does not anticipate that the transaction will significantly affect the market structure. As such, the implementation of the merger is not expected to give rise to any substantial lessening of competition or restrict trade or the provision of services in the relevant market in Botswana. Furthermore, the Authority does expect the merger to result in the acquisition of a dominant position by the Acquirer or any other third party or effect any public interest concerns.

## **The Determination**

The Authority has determined through the analysis of the facts of the merger, that the proposed transaction is not likely to result in a 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 the Section 52(2) of the Competition Act of 2018.

Pursuant to the provision of section 53 of the Act, the Authority has decided to *unconditionally approve* the proposed acquisition the of remainder of the Farm 40-NK named Ivy situated at the Ghanzi District from Tuelo (Pty) Ltd by Lambertus Johannes Vorster.

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 14<sup>th</sup> day of October 2022.

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