



## **MERGER DECISION NO 38: 2024**

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

#### **DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF PLOTS 838-849, FRANCISTOWN, BLUE JACKET STREET BY BHENAMI HOLDINGS (PTY) LTD FROM EDS (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 Plots 838-849, Francistown, Blue Jacket Street by Bhenami Holdings (Pty) Ltd ("Bhenami" or "Acquiring Enterprise") from EDS (Pty) Ltd ("EDS" or "Target Enterprise").

For completeness, Bhenami is purchasing properties being Plots 838, 839, 840, 841, 846, 847, 848, and 849 ("Target Assets") which are collectively measuring 5312 square metres, together with the letting enterprise conducted by EDS, comprising of land, the buildings, the leases, and the contracts but excluding the liabilities.

The proposed transaction has been agreed to under a Deed of Sale, made and entered into by and between the Merging Parties. According to item 2 of the Deed of Sale, the Seller hereby sells to the Purchaser, who purchases the Property subject to the terms and conditions of the agreement. The transaction was notified to the Authority on 4<sup>th</sup> September 2024 and the merger assessment was completed on 11<sup>th</sup> October 2024.

The Acquiring Enterprise, Bhenami, is a company duly registered in accordance with the Laws of Botswana. On the other hand, the Target Enterprise, EDS is a company also duly registered in accordance with the Laws of Botswana.

##### **Relevant Markets**

The assessment of the proposed merger indicates that the Acquiring Enterprise is trading in the business of real estate and currently owns properties at Plot 111, International Finance Park, Gaborone which is a commercial property used as a letting enterprise (office rentals), as well as Plot 17881 G-west 2, and Plot 81000, Gaborone North. Bhenami is not controlled by any other firm, and it does not control any other business. The Target Enterprise, EDS is also engaged in the business of real estate and currently only owns the Target Assets which are zoned as commercial property in Francistown. EDS is not controlled by any other firm, and it does not control any other business.

The Merging Parties are therefore active in the same market of real estate. However, the relevant market is broad and is characterised by well established

companies and individuals. As such, real estate in Botswana is highly diverse and customers have sufficient choice. In addition, the Target Enterprise only owns the property which is the subject of the current merger and wishes to exit the relevant market. Thus, the proposed transaction is expected to have an insignificant impact on the market under consideration.

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

The implementation of the proposed transaction is not expected to result in a substantial lessening of competition or lead to acquisition of a dominant position in any market in Botswana. For completeness, the proposed merger will not restrict trade or the provision of services or endanger the continuity of supplies in the relevant market or in any market in Botswana. In terms of Public Interest considerations, the Authority does not foresee any negative impact concerns.

### **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 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 Plots 838-849, Francistown, Blue Jacket Street by Bhenami Holdings (Pty) Ltd from EDS (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 10<sup>th</sup> day of October 2024.