



## **MERGER DECISION NO 45: 2022**

### **DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF 100% OF THE ISSUED SHARE CAPITAL IN CROSSCORN (PTY) LTD BY MHMK CAPITAL BOTSWANA 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 100% of the issued share capital in Crosscorn (Pty) Ltd (“Crosscorn” or “Target Enterprise”) by MHMK Capital Botswana Ltd (“MHMK” or “Acquiring Enterprise”). The transaction was notified to the Authority on 3<sup>rd</sup> November 2022 and the merger assessment was completed on 24<sup>th</sup> November 2022.

The Acquiring Enterprise, MHMK is a liability limited company incorporated in accordance with the Laws of the Republic of Botswana. MHMK Zimbabwe is a wholly owned subsidiary of MHMK Group Limited (“MHMK Group”). The Acquiring Enterprise controls MHMK Advisory Partners Limited which is a firm that operates a corporate and financial services business. On the other hand, the Target Enterprise, Crosscorn, is a limited liability company incorporated in accordance with the Laws of the Republic of Botswana. It is wholly controlled by Scipion Active Trading Fund (“SATF”), a company constituted under the Laws of the Cayman Islands.

#### **Relevant Markets**

The Acquiring Enterprise operates an asset management services business (with a focus on alternative investments in private equity and private credit). On the other hand, the Target Enterprise Crosscorn operates a seed production and distribution business in Mmamashia, Botswana and it produces maize seeds, sorghum seeds, cowpeas seeds, and fertilizer and it sells its products nationally. The Acquiring Enterprise and the Target Enterprise are therefore not active in the same market. In view of the nature of the products and services offered by the Target Enterprise, the Authority has concluded that the relevant market is the production and distribution of seeds and fertilizers products in Botswana.

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

In the assessment of Substantial Lessening of Competition, the proposed transaction involves an acquisition of shares by an entity which is not horizontally or vertically related to the Target Enterprise. Therefore, the proposed merger is not

expected to reduce the level of competition in the production and distribution of seeds and fertilizers in Botswana.

The structure of the relevant market will not change post-merger since the Merging Parties are not active in the same market. As such, the proposed transaction will not result in a market share accretion of the merged entity or any other entity in Botswana.

In terms of Public Interest, the Authority does not foresee any detriment to matters of public interest that will arise as result of the proposed transaction.

### **The Determination**

The Authority determined through the analysis of the facts of the merger that the structure of the relevant market will not change upon the implementation of the proposed merger and the proposed transaction is not likely to result in any adverse effects on competition, nor endanger the continuity of services in the production and distribution of seeds and fertilizers products in Botswana. 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 unconditionally approved the proposed acquisition of 100% of the issued share capital in Crosscorn (Pty) Ltd by MHMK Capital Botswana 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 24<sup>th</sup> day of November 2022.

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