COMPETITION & CONSUMER AUTHORITY

Fair Markets, Empowered Consumers.

MERGER DECISION

MERGER DECISION NO 29: 2026

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

DECISION ON THE PROPOSED ACQUISITION OF 70% SHAREHOLDING IN ENGEN BOTSWANA LIMITED BY FUSIONSPARK PROPRIETARY LIMITED FROM PETROLEUM INVESTMENT HOLDINGS LIMITED

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 respect of the proposed acquisition of 70% shareholding in Engen Botswana Limited ("Engen Botswana" or the "Target Enterprise") by Fusionspark Proprietary Limited ("Fusionspark" or the "Acquiring Enterprise") from Petroleum Investment Holdings Limited ("Petroleum Investment" or the "Seller") [the Proposed Transaction]. Upon implementation of the Proposed Transaction, the Acquiring Enterprise will acquire majority control of the Target Enterprise, and the merger is pursuant to the Share Purchase Agreement between the Merging Parties.

The Acquiring Enterprise is a company incorporated in accordance with the Laws of Botswana. It is a special purpose vehicle established for the purposes of the Proposed Transaction. Fusionspark is controlled by MMPG Limited, Surya Artha Holding Limited, and Mr Ramachandran Ottapathu. MMPG and Surya Artha are Mauritius-incorporated entities. In Botswana, MMPG directly controls Acer Logistics Botswana Pty Ltd, a fuel logistics and haulage company registered in Botswana. Surya Artha does not directly or indirectly control any firms in Botswana.

Mr Ottapathu is a Motswana individual with other business interests in the following. entities: (i) Choppies Enterprises Limited, is a dual listing on the Botswana Stock Exchange and Johannesburg Stock Exchange; (ii) The Far Property Company Limited, is listed on the BSE; (iii) Ajantha Proprietary Limited, a holding company for filling station entities domiciled in Botswana; and (iv) Kamoso Africa Proprietary Limited, a Botswana registered company.

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The Target Enterprise is a company incorporated in accordance with the Laws of Botswana public company and duly listed on the BSE. Engen Botswana is owned 70% by Petroleum Investment, registered in Mauritius; and the remaining 30% of shares are held by institutional investors. The Target Enterprise and Petroleum Investment are ultimately controlled by Vitol Holding II S.A., a company incorporated in Luxembourg, which together with its subsidiaries and affiliates, are referred to as the Vitol Group. In Botswana, the Vitol Group controls, Vivo Energy Botswana (Proprietary) Limited and Baobab Energy (Proprietary) Limited, both Botswana based companies. The Target Enterprise has controlling interests in Engen Marketing Botswana Proprietary Limited and Engen Partnership, both companies registered in Botswana.

Relevant Market

In terms of the markets of the Merging Parties, the Acquiring Enterprise is a special purpose vehicle established for the purposes of this transaction. However, its sponsors being, Mr Ottapathu and MMPG are involved in various business interests in Botswana. The other shareholder Surya Artha does not have any business interests in Botswana. It is important to note that MMPG and Surya Artha are investment companies of Mount Meru Group. Mount Meru Group is a diversified African enterprise operating across 17 countries, with a strong presence in energy, trading, logistics, agriculture, and EPC (Engineering, Procurement, and Construction) projects. In Botswana, Mount Meru is affiliated to Acer Logistics Botswana (75% controlled by MMPG), logistics company. In addition, Acer Logistics Botswana transports fuel on behalf of Acer Petroleum Botswana's commercial and industrial customers and renders the same haulage services to other companies on a commercial basis. Acer Petroleum Botswana is engaged in the procurement of bulk fuel and the wholesale distribution of petroleum products and holds a distributor and trade license. It does not participate in the retail segment of the petroleum value chain and does not own a logistic fleet. For distribution of fuel products sourced from BOL, it engages Acer Logistics Botswana and independent Botswana transport companies. Where products are procured from other licensed local suppliers, those suppliers typically arrange transportation through their own contracted transporters, which are predominantly independent Botswana owned logistics companies.

Mr Ottapathu's business interests in Botswana are as follows: (i) Choppies; he serves as its Chief Executive Officer and co-founder. Choppies is a fast-moving consumer goods retailer that operates a network of more than 120 supermarkets nationwide under the Choppies Supermarket brand. In addition, Choppies operates convenience stores under the "On the Go" brand, which are located at selected fuel retail filling stations; (ii) The Far Property is a property holding company that owns and manages a portfolio of commercial, retail, industrial, and residential properties in Botswana, South Africa, and Zambia. The properties are leased to various real estate customers, including Choppies Supermarkets, as well as retail fuel sites; (iii) Ajantha has interest in 67 retail station sites through its stake in Reddy Group;

and (iv) Kamoso Africa, supplies and distributes a range of products, including groceries, beverages, personal care products, pharmaceuticals, liquor, building materials, and equipment across the region. Kamoso Africa operates through various businesses, including Liquorama and Buildersmart.

The Target Entity is engaged in the wholesale supply and distribution of retail and commercial petroleum products including, petrol (gasoline), diesel, kerosene (jet fuel), and lubricants, throughout Botswana. The Target's customers comprise its branded service stations and a broad range of commercial customers, including government institutions, parastatals, construction companies, mining companies, transport and logistics firms, agricultural businesses, and other commercial enterprises across Botswana. The Target has a network of 67 Engen-branded retail service stations across Botswana. These service stations are operated by independent dealers. In light of this, it can be concluded that the proposed transaction gives rise to overlaps in the wholesaling and retailing sites ownership segments of the petroleum value chain in Botswana. Therefore, the product market for the proposed transaction can be narrowed down to the following relevant product markets:

a) *the market for the wholesaling and retailing of fuel (petrol and diesel) to retail and commercial customers in Botswana; and*
b) *the market for ownership of retail service station sites in Botswana.*

Competitive Analysis and Public Interest

The Authority has established that in the market for the wholesaling and retailing of fuel (petrol and diesel) to retail and commercial customers in Botswana, the Acquiring Enterprise (Acer Petroleum Botswana)'s estimated market share is 0.2%, while the Target Entity's estimated market share is 15.9%. Therefore, the combined market share of the Merging Parties post-merger will be 16.1%, which is below the 25% merger dominance threshold. Furthermore, there is presence of other big competitors, who are expected to continue exerting competitive pressure on the Merging Parties post-merger. Moreover, in the absence of the merger, Acer Petroleum Botswana and Engen Botswana will continue to operate independently in the market. This would likely result in sustained competition between these entities, as they would each pursue their own strategies for growth and market share.

Consequently, the independent operations of these firms could foster greater competition in the relevant market, potentially leading to better negotiated prices and contractual terms with their customers. In addition, Vivo Energy Botswana and Engen Botswana are both part of the Vitol Group. They operate networks of 67 and 96 dealer-operated retail service stations, respectively, giving them a combined total of 163 dealer-operated retail service stations out of approximately 356 nationwide, representing a combined market share of 45.79%. This combined share is substantially above the 25% dominance threshold.

Therefore, in the absence of the proposed merger, these two firms would continue to maintain significant market positions in the relevant market in Botswana. It is worth highlighting that this was the concentration position that the Authority sought to reduce by ordering a divestiture in the previous merger in 2023. At the time of the present transaction, this concentration position still prevails.

In relation to barriers to entry and expansion, there has been a number of new entrants in the retail and commercial supply of fuel in Botswana, in the said market and this suggests that barriers to entry are not material, for instance, licences are not difficult to obtain. Furthermore, barriers to expansion in the retail and commercial supply market are also likely to be low, in that most Citizen Owned Oil Companies ("COOCs") are vertically integrated and are well placed to expand their retail and commercial operations.

Moreover, the Proposed Transaction is not expected to affect the bargaining position of logistics companies or independent dealers. This is so given that there are no exclusive agreements between the logistics companies, independent dealers and the oil marketing companies. In view of this, the Authority therefore concludes that countervailing power will make substantial lessening of competition less likely. However, the implementation of this transaction is expected to remove an effective competitor in the market for the wholesaling and retailing of fuel (petrol and diesel) to retail and commercial customers in Botswana; in that the second largest player at 15.9%, Engen Botswana, is acquired by the smallest player (Acer Petroleum Botswana) with a market share of 0.2%. The proposed acquisition would therefore result in the loss of Engen Botswana as an independent competitor and transfer its significant market position to Acer Petroleum Botswana. This would strengthen Acer Petroleum Botswana's position in the market. However, the assessment indicates the presence of relatively larger players, in the relevant market, which would continue to impose competitive pressure on the merged entity. These players have the ability and capacity to exert competitive constraints within the market, ensuring that rivalry remains intact post-merger and continues to discipline the commercial behaviour of the Merged Entity.

This transaction does not raise harm in terms of unilateral-effects or coordinated effects concerns.

However, because of the vertical linkage established between Engen Botswana and Fusionspark via the Engen branded retail service sites operated by the Reddy Group (Ajantha), the transaction is likely to give rise to potential foreclosure risks. These risks arise from Ajantha's 75% shareholding in the Reddy Group considered alongside Mr Ottapathu's 30% shareholding in Fusion Spark. The Authority's assessment findings indicate a strong likelihood that Ajantha's 75% shareholding in the Reddy Group will provide Mr Ottapathu with the ability to align the Reddy Group's commercial decisions with the merged entity's interests creating an incentive to discriminate in favour of the Target branded volumes against unaffiliated Target dealers, and rival wholesalers operating through the Reddy Group's multi-branded sites.

The Determination

The proposed transaction may raise public interest concerns under Section 52(2) of the Competition Act of 2018, given that it is a horizontal merger with the potential adverse effect on the employees of the Merging Parties. The Authority is committed to addressing these concerns through its merger assessment process, with a particular focus on preventing merger-related retrenchments and protecting citizen employment.

On a positive note, the Engen Botswana branded retail service stations are operated by independent dealers who are local citizens operating on the basis of franchise agreements. In addition, Engen Botswana and Acer Petroleum Botswana have engaged citizen-owned logistics companies to distribute petroleum products to their customers in Botswana, demonstrating a commitment to local empowerment. Given its market position in the market, the Authority believes Engen Botswana can further support citizen-owned businesses, particularly SMMEs by expanding its supply chain to include more local suppliers, such as transport service providers.

Based on the public interest concerns raised regarding the possible adverse effect on the employment of the Merging Parties, the Target Enterprise's independent dealer franchise agreements and Engen Botswana and Acer Petroleum Botswana' logistic service providers, as well as potential public benefit for citizen empowerment; and pursuant to Section 52(2)(f) of the Competition Act of 2018, the Authority has decided that the proposed transaction be approved with the following conditions, which are aimed at safeguarding employment and independent dealer franchise arrangements, and on the other hand promote citizen empowerment:

a) Before implementation of the proposed transaction, Ajantha which holds a 75% shareholding in Reddy Group must divest its entire interests in Reddy Group. The 75% shareholding must be disposed to citizens or citizen owned companies, including first time investors. In addition, for a period of 3 years from the implementation date, Ajantha should not either as a principal, agent, partner, representative, shareholder, director, consultant, advisor, financier, or in other like or similar capacity, directly or indirectly be associated with, interested or engaged in any firm, business, company with the Reddy Group.

b) From the effective date of the transaction, the Merged Entity shall honour and comply with all existing agreements with independent dealers operating under dealer or franchise agreements with the Target, including terms relating to fuel supply, pricing, payment, equipment, maintenance and other operational arrangements, without limiting the parties' rights to amend, terminate or renegotiate any such agreement by mutual agreement, in the ordinary course of business, or in accordance with its terms and applicable law not resulting as a result of this transaction. In this regard, the Merging Parties shall:

i. subject to ordinary course of business, renegotiate for renewal on arm's length commercial terms any Dealer Agreement that expires on or after the effective date of the Transaction on terms that are no less favourable to the dealer than those applicable immediately prior to expiry and subject to the mutual agreement applicable law and the contractual rights of the parties;

ii. maintain existing supply and payment terms applicable to Independent Dealers and consult with the affected dealer before implementing any proposed material changes to such terms. For the purposes of this condition, “Material Change” means any change to pricing formula, rebate structure, credit terms, supply volumes, or supply priority that is less favourable to the Independent Dealer than the terms in effect prior to the Transaction; for clarity, this shall not prevent changes required by law or regulation, changes arising from industry or market conditions, or changes made in the ordinary course of business and not as a result of the Transaction; and

iii. honour existing operational arrangements with independent dealers relating to the supply, installation, fitting and maintenance of equipment.

c) The Merged Entity shall report to the Authority, on an annual basis, all instances of Dealer Agreement non-renewal, Material Change, or termination for a period of 3 years from the date of the Transaction, together with the justification relied upon in each case.

d) From the effective date of the Transaction, the Merged Entity shall afford all convenience store operators equal and non-discriminatory opportunity to operate convenience stores at Target-branded retail service stations, based on objective and consistently applied commercial, operational, safety, compliance and capacity criteria, and shall not discriminate in favour of any particular convenience store brand. The Merged Entity shall further afford all convenience store operators equal opportunity to negotiate the renewal of their arrangements in the ordinary course of business and on commercially acceptable terms.

e) Within 12 months of the decision date, the Merging Parties shall conduct an open, transparent and competitive expression of interest process to identify and appoint no fewer than 5 suitable and qualified citizen-owned companies/transporters with whom they shall enter into distributorship agreements. Any such appointment shall be subject to applicable qualification, safety standards, compliance due diligence, existing contractual arrangements, and the Merging Parties' commercial capacity to sustain the appointments made:

i. The Merging Parties are required to submit an update on the progress of the condition above, at least 6 months before the expiry of the 12-month period stated in condition (e);

ii. Should the Merging Parties be unable to conclude distributorship agreements within the compliance period, they shall apply to the Authority, not later than 60 days before the expiry of the compliance period for an extension, supported by evidence of efforts expended in complying with condition (e).

f) There shall be no direct merger specific retrenchments or redundancies of citizen employees for a period of three (3) years from the Approval date. For clarity, merger specific retrenchments or redundancies do not include (the list is not exhaustive):

i. voluntary retrenchment and/or voluntary separation arrangements;
ii. voluntary early retirement packages;
iii. unreasonable refusals to be redeployed;
iv. resignations or retirements in the ordinary course of business;
v. retrenchments lawfully effected for operational requirements unrelated to the Merger; and
vi. terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance;

g) The Merged Enterprise shall, inherit all employees of the Target Enterprise on the same or better terms and conditions of employment;

h) The Merged Enterprise shall provide details (Full Name; Identification Number; Gender; Position; and contact number) of the current employees of the Target Enterprise and the Acquiring Enterprise within thirty (30) business days from the Approval date;

i) The Merged Enterprise shall share a copy of the conditions of approval with all employees of the Target Enterprise and Acquiring Enterprise and/or their respective representatives within thirty (30) business days from the Approval date;

j) The Merged Enterprise shall inform the Authority in writing of the date of the implementation of the merger within (30) business days post implementation date;

k) The Merged Enterprise shall for a period of (three) 3 years from the date of Approval submit to the Authority, a report on each anniversary of the implementation date, detailing its compliance with the conditions of approval; and

l) The Authority reserves the right to request for any additional information, at any point in time, from the Merged Enterprise which the Authority deems necessary for the monitoring of compliance with these conditions.

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 8th day of September 2026.

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