



MERGER DECISION NO 01: 2021

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

THE PROPOSED ACQUISITION OF 51% ISSUED SHARE CAPITAL OF TEPZMURT (PTY) LTD T/A FENESTRA UNLIMITED BY ZANE GOUVEIA CURRENTLY HELD BY CONSOLIDATED STEEL INDUSTRIES (PTY) LTD

Introduction of the Merging Parties

- i. 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 51% issued share capital of Tepzmurt (Pty) Ltd t/a Fenestra Unlimited ("Fenestra") by Zane Gouveia currently held by Consolidated Steel Industries (Pty) Ltd ("CSI"). The transaction was notified to the Authority on 16th December 2020 and the merger assessment was completed on 8th January 2021.
- ii. The Acquirer, Zane Jose Melo Gouveia, is a Motswana having interests in the following entities: Tepzmurt (Pty) Ltd t/a Fenestra Unlimited situated at Plot 50675 Unit 2, Phase 2; The Farm Kitchen (Pty) Ltd t/a The Biltong Shop situated in Sebele Mall; Endowin (Pty) Ltd which is a Property Holding company for tribal land, Plot 169 Oodi and Plot 223 Modipane; and Peak Feast (Pty) Ltd which is a Property Holding company for Plot 55502, Phakalane.
- iii. The Target Enterprise, Fenestra, is a company incorporated in accordance with the Laws of Botswana. It is directly or indirectly controlled by Consolidated Steel Industries (Pty) Ltd ("CSI"). CSI directly or indirectly controls the following entities: GRS Botswana; GRS Zimbabwe; Country Roofing; and GRS Zambia. Fenestra does not directly or indirectly control any firm. Fenestra is licensed to trade in the following goods and services: large-scale tools and equipment, together with building materials in large quantities. It supplies and distributes aluminium, glass, stainless steel and ironmongery products across Botswana. The director of Fenestra is Zane Jose Melo Gouveia (Botswana).

Relevant Markets

- iv. In terms of the relevant market, the assessment of the proposed transaction revealed that both the Target Enterprise and The Acquirer are incorporated in accordance with the Laws of Botswana.

However, investigation findings further show that the parties involved in the transaction are not in the same line of business therefore there is absence of product overlap in the business activities of the Merging Parties. Rather the transaction represents an internal restructuring whereby the acquirer will be increasing his shareholding from 49% to 100%.

- v. The Acquiring Enterprise is an individual who has interests in diverse businesses which are largely property holding companies. For the purpose of this transaction it suffices to note that the acquirer does not have any interest in any business that offer and distributes building materials and large-scale tools other than the existing shareholding he has on the target enterprise (Fenestra).
- vi. On the other hand, the Target Enterprise, Fenestra, is licensed to trade in the following goods and services: large-scale tools and equipment, together with building materials in large quantities. It supplies and distributes aluminum, glass, stainless steel and ironmongery products across Botswana.
- vii. The transaction represents an internal restructuring whereby the acquirer will be increasing his shareholding from 49% to 100%. It is against this backdrop that the Authority maintains that it is not necessary to reach a definitive view on the exact scope of the product market as the market structure is not expected to change post implementation of the proposed transaction.

Competitive Analysis and Public Interest

- viii. In the assessment of Substantial Lessening of Competition, the Authority discovered that there the transaction assessed is not expected to substantially lessen competition due to the absence of product overlap in the activities of the Merging Parties. The merger is not expected to result in the reduction of the number of players in the market as it is an internal restructuring which will not affect the structure of the market upon implementation of this transaction.
- ix. In terms of the Acquisition of a Dominant Position, the analysis shows that the proposed transaction has no effect on the market status quo; and as such, the merged entity is not expected to attain any dominant position on account of the transaction. The Authority acknowledges that the transaction is about an internal restructuring whereby the acquirer will be increasing his shareholding from 49% to 100%.
- x. With regards to Public Interest Considerations, the merger assessment findings did not reveal any detriment to matters of public interest that will arise as result of the transaction under consideration.

The Determination

- xi. The Authority 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, 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.
- xii. Pursuant to the provision of section 53 of the Act, the Authority has unconditionally approved the proposed acquisition of 51% issued share capital of Tepzmurt (Pty) Ltd t/a Fenestra Unlimited by Zane Gouveia currently held by Consolidated Steel Industries (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 8th day of January 2021.

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