



## MERGER DECISION NO 30: 2021

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

#### **DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF THE 100% ISSUED CAPITAL IN DEEP CATCH NAMIBIA HOLDINGS (PTY) LTD BY IMPERIAL LOGISTICS LTD THROUGH ITS SUBSIDIARY IMPERIAL CAPITAL 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 the 100% issued share capital in Deep Catch Namibia by Imperial Logistics Ltd ("Imperial Logistics") through its subsidiary - Imperial Capital Ltd ("Imperial Capital").

The Acquiring Enterprise, Imperial Capital, is a company incorporated in accordance with the Laws of the Republic of South Africa; and it is a 100% subsidiary of Imperial Logistics, a public company listed on the Johannesburg Stock Exchange. Imperial Logistics and its various subsidiaries, collectively Imperial Group of Companies, ("Imperial Group") are the transport and logistics providers in various African countries, and also providers of contract logistics and freight services in Europe and the United Kingdom. Imperial Capital is the holding company of Imperial's African businesses, with businesses ranging from transportation, distribution, and logistics services.

Imperial Capital's relevant activities in Botswana can be separated into two distinct sectors, as follows:

- a) The provision of market access services through its wholly owned Botswana based subsidiary, Fine Pharmaceuticals (Pty) Ltd ("Fine Pharmaceuticals"), to pharmaceutical and healthcare customers located in Botswana. In this respect, Imperial essentially operates as a wholesale distributor of pharmaceutical and health products in Botswana; and
- b) The provision of freight management services of bulk fuel through its wholly owned Botswana based subsidiary, Imperial Tankers Services (Pty) Ltd ("Imperial Tankers"). The freight management market is the market of overseeing, managing transporting, and delivering products on behalf of customers from their point of origin to their ultimate destination.

The Target Enterprise, Deep Catch Namibia, is a company incorporated in accordance with the Laws of the Republic of Namibia. Deep Catch Namibia specialises in the importation of perishable commodity products from local and

international suppliers into Namibia and South Africa for export into Southern African Development Community (SADC) countries, including Botswana.

Its wholesale trading division exports the following temperature-controlled Fast Moving Consumer Goods (FMCG) products into Botswana customers: mechanically deboned chicken, beef trimmings/fat (sausage production meat), cheese and seafood.

## **Relevant Markets**

It is submitted that the Acquiring Enterprise is a holding company of Imperial's African region businesses. Imperial Capital has interests in business ranging from transportation, distribution and logistics services. By extension, Imperial, which wholly owns Imperial Capital and the various companies which form part of the Imperial Group of companies, are in the main established transport and logistic providers in various African countries. The industries served by Imperial are primarily involved in the healthcare, consumer, automotive, chemical and industrial sectors.

Imperial Capital's relevant activities in Botswana can be separated into two distinct sectors namely the provision of market access and provision of freight management. The former is conducted via its wholly owned subsidiary, Fine Pharmaceutical (Pty) Ltd to pharmaceutical and health care customers located in Botswana. Whereas the latter involves the overseeing, managing, transporting and delivering products on behalf of customers from their point of origin to their ultimate destination. Imperial Tankers Botswana conducts this. Imperial Tankers Botswana provides both primary and secondary road transport of bulk fuel.

## **Competitive Analysis and Public Interest**

In the assessment of Substantial Lessening of Competition, the Authority concluded that 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 a reduction of the number of players in the market.

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.

Concerning 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**

The Authority determined through the analysis of the facts of the merger, that the proposed transaction is not likely to result in 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 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 the 100% issued share capital in Deep Catch by Imperial Logistics Ltd through its subsidiary Imperial Capital 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 16<sup>th</sup> day of September 2021.

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