



MERGER DECISION NO 46: 2021

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

DECISION ON THE PROPOSED ACQUISITION OF 51% OF ISSUED SHARE CAPITAL IN ASPEN LOGISTIC SERVICES (PTY) LTD BY FRIEDSHELF 1726 (PTY) LTD FROM BARLOWORLD TRANSPORT (PTY) LTD

Introduction of the Merging Parties

- i. Pursuant to Section 53(4)(a)(ii) of the Competition Act of 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 51% of the issued share capital in Aspen Logistic Services (Pty) Ltd ("Aspen") by Friedshelf 1726 (Pty) Ltd ("Friedshelf") from Barloworld Transport (Pty) Ltd ("BWT"). The proposed acquisition will culminate in Friedshelf owning 100% of the issued share capital in Aspen. The transaction was notified to the Authority on 4th October 2021 and the merger assessment was completed on 25th November 2021.
- ii. Friedshelf, the Acquiring Enterprise, is a company incorporated in accordance with the Laws of the Republic of South Africa. It is wholly owned and controlled by Aspen Business Trust; a family trust registered in South Africa. Friedshelf is an investment holding company that holds an interest in Aspen.
- iii. Aspen, the Target Enterprise, is incorporated in accordance with the Laws of the Republic of South Africa. Aspen is a road transport and Logistics Company involved in the transportation of temperature controlled fast-moving consumer goods (FMCGs) in South Africa and neighbouring countries. It is jointly owned and controlled by Friedshelf and BWT. In turn, Aspen wholly owns and controls Haiden Investments (Pty) Ltd ("Haiden"), a company incorporated in accordance with the Laws of the Republic of Botswana. Haiden is active in the road transport and logistics industry in Botswana.

Relevant Markets

- iv. The merging parties hold an indirect shareholding in Haiden, a Botswana based subsidiary which is active in the road transport and logistics industry in Botswana. Specifically, Haiden transports temperature controlled FMCG products (primarily fruit and vegetables). Thus, the relevant market is defined as the market for transportation of temperature controlled FMCGs in Botswana.

Competitive Analysis and Public Interest

- v. The Authority notes that there is no overlap in the activities of the merging parties in the relevant market since the Acquiring Enterprise's presence in Botswana is only through Haiden. The transaction essentially involves an increase in shareholding by an already existing shareholder. Furthermore, there is no acquisition of market dominance post-merger; nor any negative effect on public interest in that was identified in Botswana as per the provisions of section 52(2) of the Competition Act of 2018.

The Determination

- vi. The Authority determined through the analysis of the facts of the merger, that the proposed transaction is not likely to result in the prevention or substantial lessening of competition, or endanger the continuity of the services offered in the relevant market. Furthermore, no public interest concerns have been identified.
- vii. Pursuant to the provision of section 53 of the Act, the Authority has unconditionally approved the proposed acquisition of 51% of the issued share capital in Aspen by Friedshelf from BWT.
- viii. 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 25th day of November 2021.

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