



MERGER DECISION NO 7: 2018

DECISION ON THE PROPOSED SALE OF THE BUSINESS AND ASSETS OF VPB PROPCO (PTY) LTD (IN LIQUIDATION), QSR FOOD COMPANY (PTY) LTD (IN LIQUIDATION), BOITUMELO DIJO (PTY) LTD (IN LIQUIDATION) AND GREENAX (PTY) LTD (IN LIQUIDATION) (“THE TARGET ENTERPRISES”) BY BRADLEYMORE’S HOLDINGS (PTY) LTD.

PURSUANT to section 60(4)(a)(ii) of the Competition Act (Cap 46:09), notice is hereby given on the decision made by the Competition Authority (“the Authority”) in respect of the proposed sale of the business and assets of VPB Propco (Pty) Ltd (in liquidation), QSR food company (Pty) Ltd (in liquidation), Boitumelo Dijo (Pty) Ltd (in liquidation) and Greenax (Pty) Ltd (in liquidation) (“the target enterprises”) by Bradleymore’s Holdings (Pty) Ltd.

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 market for quick-service or fast food restaurants. Nonetheless, the Authority took cognisance of the commitment by the merging parties’ in their intention to continue sourcing from local supplies approved by YUM. The Authority further takes note of the commitment by Bradleymore’s to develop a robust supply chain that is aimed at ensuring that local suppliers are capacitated to enable them to meet the supply requirements set by YUM i.e., adhering to the franchisors quality standards.

In light of the aforementioned, and pursuant to the provisions of section 60 of the Competition Act; the Authority has approved the proposed sale of the business and assets of VPB Propco (Pty) Ltd (in liquidation), QSR Food Company (Pty) Ltd (in liquidation), Boitumelo Dijo (Pty) Ltd (in liquidation) and Greenax (Pty) Ltd (in liquidation) (collectively referred to as “the Target Enterprises”) by Bradleymore’s Holdings (Pty) Ltd with the following conditions:

- i. Bradleymore’s shall source a significant portion of their input requirements locally by continuing to source from existing suppliers that were engaged by VPB, provided they are YUM accredited; as well as consider sourcing from any other YUM accredited suppliers based in Botswana who are currently not supplying KFC;

- ii. Bradleymore's shall ensure that local suppliers are assisted in penetrating or meeting YUM's standards of accreditation with the aim of sourcing from these suppliers; and
- iii. The Parties shall not retrench any employees of the target entities as a result of the acquisition for a period of three (3) years from the implementation date. For the sake of clarity, retrenchments do not include: voluntary separation; voluntary early retirement; unreasonable refusal to be deployed in accordance with the provisions of the labour laws of Botswana; resignations or retirements in the ordinary course of business; terminations in the ordinary course of business; dismissals as a result of misconduct of poor performance.¹

In order for the Authority to properly monitor compliance with the above conditions, the Authority shall require Bradleymore's to adhere to the following:

- i. Bradleymore's shall annually (for a period of three years from the implementation date) submit to the Competition Authority, a detailed report indicating:-
 - a) Any changes to its employment records in the country and the reasons thereof;
 - b) A list of its existing and new locally based suppliers (including the type of inputs they supply). This information can be captured in the supply agreements KFC has with such suppliers; and
 - c) A copy of the strategy to be employed in building capacity of local suppliers in ensuring they meet YUM accreditation standards. That copy should be availed to the Authority within a period of twelve (12) months from the implementation date. The parties need to demonstrate to the Authority efforts made in identifying potential suppliers in line with their expansion strategy.

¹ Section 25 (1) of the Employment Act [CAP.47:01] states that an employer may terminate a contract of employment for the purpose of reducing his workforce on the basis of redundancy.

Furthermore, as stated under section 66 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 this 7th day of February 2018.

Tebelelo Pule, Chief Executive Officer, Competition Authority, P/Bag 00101,
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