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## MERGER DECISIONS NO.4 OF 2023

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On Thursday, 10<sup>th</sup> of August 2023, the Namibian Competition Commission (**“the Commission”**) held its Technical Board meeting to review and make decisions on matters brought before the Commission by members of the public and corporate applicants under the Competition Act (2 of 2003). Below are the Board decisions on mergers presented at the meeting.

**1. Grasta Karibib Engen CC // Drikus Bruwer Swanepoel**

The Commission resolved to approve without conditions the acquisition of member’s interest in Grasta Karibib Engen CC by Drikus Bruwer Swanepoel. The acquiring group is involved in professional hunting, farming, and agricultural related activities. The target undertaking is engaged in selling refined products such as petrol fuel, gasoline, diesel fuel and engine lubricants for use by motor vehicles and related trading activities.

The Commission found the proposed transaction unlikely to result in the prevention or substantial lessening of competition; does not result in any undertaking acquiring or strengthening a dominant position in the market and does not raise any public interest concerns.

**2. 2 M Promotions (Société par actions simplifiée) // RUIIMTE Proprietary Limited**

The Commission resolved to approve with conditions the acquisition by 2 M Promotions (Société par actions simplifiée) of the entire issued share capital of Ruimte (Proprietary) Limited. The acquiring group is in the business of property development, acquisition and management of real estate assets, and provision of services to subsidiaries, self-catering accommodation, rental of premises for meetings (seminars, weddings, banquets) and hotel management and operations but has no business activities in Namibia. The target undertaking business activities includes provision of tourism services such as accommodation, safari, and trophy hunting.

The Commission has found the proposed transaction unlikely to result in the prevention or substantial lessening of competition; does not result in any undertaking acquiring or strengthening a dominant position in the market but it raises public interest concerns, in particular employment concerns. Thus, the Commission approved the merger subject to employment conditions.

**3. Life Healthcare Group Proprietary Limited // The Dialysis Services Business of Fresenius Medical Care South Africa Proprietary Limited**

The Commission resolved to approve without conditions the acquisition by Life Healthcare Group Proprietary Limited of the dialysis services business of Fresenius Medical Care South Africa Proprietary Limited which is known as the NephroCare Division. The acquiring group operates multidisciplinary acute care hospitals in various provinces across South Africa, through which it provides a comprehensive suite of hospital services. The target undertaking is engaged in the provision of renal dialysis services to the public.

The Commission found the proposed transaction unlikely to result in the prevention or substantial lessening of competition; does not result in any undertaking acquiring or strengthening a dominant position in the market and does not raise any public interest concerns.

**4. Polyoak Properties (Pty) Ltd // Plaspack Properties Prosperita (Pty) Ltd**

The Commission resolved to approve without conditions the acquisition by Polyoak Properties Pty Ltd of the entire issued share capital of Plaspack Properties Prosperita (Pty) Ltd. The acquiring group manufacture and sell plastic packaging products from its manufacturing facility installed on the Target Property. The primary target undertaking is a property-owning entity that owns immovable property, including the Target Property being leased to the acquirer.

The Commission found the proposed transaction unlikely to result in the prevention or substantial lessening of competition; does not result in any undertaking acquiring or strengthening a dominant position in the market and does not raise any public interest concerns.

**5. Pupkewitz Property Unit Trust or Nominee // Thunderstruck Investments PTY LTD**

The Commission resolved to approve without conditions the acquisition by Pupkewitz Property (Windhoek) Pty Ltd of the entire issued share capital in Fifteen companies (“**Thunderstruck**”)<sup>1</sup>. The acquiring group is active in a diverse range of business activities such as Administration and Finance, Building and Hardware, Electrical Supplies, Motors, Sundry business, and also own various immovable properties situated throughout Namibia. The primary target undertakings are property-owning companies that hold portions of Erf 1346, Windhoek which is a vacant, immovable property.

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<sup>1</sup> Thunderstruck Investments One (PTY) Ltd, Thunderstruck Investments Two (PTY) Ltd, Thunderstruck Investments Three (PTY) Ltd, Thunderstruck Investments Four (PTY) Ltd, Thunderstruck Investments Five (PTY) Ltd, Thunderstruck Investments Six (PTY) Ltd, Thunderstruck Investments Seven (PTY) Ltd, Thunderstruck Investments Eight (PTY) Ltd, Thunderstruck Investments Nine (PTY) Ltd, Thunderstruck Investments Ten (PTY) Ltd, Thunderstruck Investments Eleven (PTY) Ltd, Thunderstruck Investments Twelve (PTY) Ltd, Thunderstruck Investments Thirteen (PTY) Ltd, Thunderstruck Investments Fourteen (PTY) Ltd & Thunderstruck Investments Fifteen (PTY) Ltd.

The Commission found the proposed transaction unlikely to result in the prevention or substantial lessening of competition; does not result in any undertaking acquiring or strengthening a dominant position in the market and does not raise any public interest concerns.

**6. Cider House Investments (Pty) Ltd // The Licence for the sale and distribution of the Strongbow Brand**

The Commission resolved to approve without conditions the acquisition of the sale and distribution license of the Strongbow brand by Cider House Investments (Pty) Ltd. The proposed merger was notified to the Commission pursuant to the Commission's conditional approval of the merger involving Heineken International BV // NBL Investment Limited // Distell Group Holdings Limited, case number 2022FEB0005MER, in September 2022. One condition that was imposed required Heineken, the primary acquiring undertaking in that merger to divest its Strongbow brand to a licensee and the current proposed merger is therefore in compliance with that condition. The acquiring group is involved in the production, distribution and marketing of alcoholic beverages but has no business activities in Namibia. The target undertaking is the sale and distribution license of the Strongbow brand in Namibia, South Africa, Botswana, Eswatini, Lesotho, Zambia and Zimbabwe. The license is currently owned and controlled by Heineken South Africa (Pty) Ltd.

The Commission found the proposed transaction unlikely to result in the prevention or substantial lessening of competition; does not result in any undertaking acquiring or strengthening a dominant position in the market and does not raise public interest concerns.

**7. The Development Bank of Namibia // Outapi Shopping Centre Close Corporation**

The Commission resolved to approve with conditions the acquisition of the majority of members interest in Outapi Shopping Centre Close Corporation by the Development Bank of Namibia ("DBN") in terms of the DBN business rescue programme. The acquiring group is a creature of statute that provides financing in support of key development activities. The target undertaking is a shopping Centre offering mostly retail and office space.

The Commission found the proposed transaction unlikely to result in any undertaking acquiring or strengthening a dominant position in the market, but does raise public interest concerns and could result in the prevention or substantial lessening of competition. Thus, the Commission approved the merger subject to conditions that upon the repayment of the loan, DBN should dispose of its interest and exit the target undertaking and that DBN must not discriminate potential customers on the basis of its interest in the target undertaking.

**8. Vivo Energy Namibia Limited // Triple J Energies Proprietary Limited T/A 'Gasit' (The Gasit Business)**

The Commission resolved to approve with conditions the acquisition by Vivo Energy Namibia Limited of the assets and business conducted by Triple J Energies Proprietary Limited as a going concern trading under the business name 'Gasit'. The acquiring group business activities includes the supply and distribution of crude oil, petroleum products and natural gas. The primary target undertaking is involved in the LPG bulk and cylinder distribution.

The Commission has found the proposed transaction likely to result in the prevention or substantial lessening of competition; it is likely to result in an undertaking acquiring or strengthening a dominant position in the market and it raises public interest concerns, in particular employment. Thus, the Commission approved the merger subject to employment and vertical foreclosure conditions.

**9. Diroyal Motors (SWA) (Pty) Ltd // The Automotive Dealership Business of Indongo Ford (Pty) Ltd**

The Commission resolved to approve without conditions the acquisition by Diroyal Motors (SWA) (Pty) Ltd of the Ford automotive dealership business of Indongo Ford (Pty) Ltd in Oshakati. The acquiring group sell and distribute new and used Ford, Jaquar, Land Rover and Mazda, Nissan branded vehicles; provide maintenance and repair services and spare parts. The target undertaking is the Ford Automotive Dealership Business traded under Indongo Ford (Pty) Ltd in Oshakati which sells and distribute new and used Ford branded vehicles; provide maintenance and repair services and spare parts.

The Commission found the proposed transaction unlikely to result in the prevention or substantial lessening of competition; does not result in any undertaking acquiring or strengthening a dominant position in the market and does not raise any public interest concerns.

**10. The Expanded Infrastructure Fund // Aloe Investment Number Twenty-Seven (Pty) Ltd**

The Commission resolved to approve without conditions the acquisition of additional shares in Aloe Investment Number Twenty-Seven (Pty) Ltd by Strudee Energy Namibia (Pty) Ltd. The acquiring group develops, owns, and operates renewable energy projects to supply power to government utilities, large corporates, and industrial clients in sub-Saharan Africa. Their focus is across solar PV, wind, run of river hydro, and battery storage technologies. The target undertaking is involved in the generation of solar generated electricity.

The Commission found the proposed transaction unlikely to result in the prevention or substantial lessening of competition; does not result in any undertaking acquiring or strengthening a dominant position in the market and does not raise any public interest concerns.

**11. BCP VI Neptune Bidco Holdings Limited // Network International Holdings Plc**

The Commission resolved to approve without conditions the acquisition by BCP VI Neptune Bidco Holdings Limited of the entire issued and to be issued share capital in Network International Holdings Plc. The acquiring group is a global asset manager which focus on renewable power and transition, infrastructure, private equity, real estate, and credit and insurance. The target undertaking provides merchant services through Virtual Card, a payment services provider which provides merchant acquiring services to customers. The target undertaking further provide outsourced payment services to their customers in Namibia on a cross border basis from entities based outside of Namibia.

The Commission found the proposed transaction unlikely to result in the prevention or substantial lessening of competition; does not result in any undertaking acquiring or strengthening a dominant position in the market and does not raise any public interest concerns.

#### **12. Puma Energy (Namibia) (Pty) Ltd // True-Gem Investments Close Corporation**

The Commission resolved to approve without conditions the acquisition by Puma Energy (Namibia) (Pty) Ltd of the business of True-Gem Investments Close Corporation as a going concern. The acquiring group is an international commodity trader, specialising in the physical trading (i.e. supply and transport) of oil and petroleum, mineral and metal commodities. In Namibia, the acquiring group is active in the following activities: Operating storage terminals; Retail supply of automotive fuels (petrol and diesel) and lubricants; Bunkering (marine fuel; and the supply of aviation fuel. The target undertaking operates as a retail-fuel business and letting enterprise.

The Commission found the proposed transaction unlikely to result in the prevention or substantial lessening of competition; does not result in any undertaking acquiring or strengthening a dominant position in the market and does not raise any public interest concerns.

**Issued by:**

**The Namibian Competition Commission**

**Merger and Acquisitions Division**

15 August 2023

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