



MERGER DECISIONS NO.6 OF 2023

On Friday, 27th of October 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. Vitol Emerald Bidco (Proprietary) Ltd // Engen Limited

The Commission resolved to approve with conditions the acquisition by Vitol Emerald Bidco Proprietary Limited of the entire issued share capital of Engen Limited. The acquiring group, business activities include the supply and distribution of crude oil, petroleum products and natural gas. In addition, the acquiring group also provides a non-fuel retail offering via the operation of convenience retail shops and quick service restaurants. The primary target undertaking imports its fuel requirement, and this includes gasoline, diesel, lubricants, jet fuel, kerosene, and bunker fuel (diesel for marine use). It also earns a turnover levy on certain non-fuel products sold by the dealers at the retail service station sites, including from convenience stores (Quick Shops), fast food stores and ATMs.

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 horizontal conditions with a divestiture remedy.

2. RWCo GMBh & CO. KG // Schwenk Namibia Proprietary Limited

The Commission resolved to approve with conditions the acquisition by RWCo GmbH & Co. KG (**“RWCo”**) of the entire issued share capital in SCHWENK Namibia Proprietary Limited from SCHWENK Zement International GmbH & Co. KG. The acquiring group is involved in the manufacture, production, and distribution of building materials. In Namibia, the acquiring group is engaged in farming operations. The target undertaking holds interests in companies that operate in different industries, which include renewable energy and cement production.

The proposed merger is unlikely to result in the prevention or substantial lessening of competition or in any undertaking acquiring or strengthening a dominant position. However, the transaction raises an opportunity to promote local ownership through additional Namibian Ownership in Ohorongo Cement. To achieve this objective, the proposed merger was approved with a condition that the right of first refusal and/or call option of the acquiring and/or merged undertaking notwithstanding, at any stage after the implementation of the transaction, should any shareholding become available for purchase, the acquiring and/or merged undertaking shall be prohibited from acquiring any further shareholding for a period of one (1) year from the date of offering of such shareholding, to allow opportunity to a Namibian owned undertaking to acquire such shareholding. Should no Namibian entity successfully acquire the shareholding by the end of such year, the acquiring and/or merged undertaking shall be entitled to acquire shareholding, if so advised and/or elected.

Issued by:

The Namibian Competition Commission

Merger and Acquisitions Division

02 November 2023

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