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## General Notices

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### NAMIBIAN COMPETITION COMMISSION

No. 274

2013

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED MERGER: AGRA LIMITED (SAFARI DEN) // A. ROSENTHAL (PTY) LTD & AGRA LIMITED (SAFARI DEN) // KALAHARI ARM & AMMUNITION (PTY) LTD T/A SAFARI GUNS & OUTFITTERS

CASE NOS.: 2013MAR0010MER & 2013MAR0014MER

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

1. The Commission received notification of the abovementioned proposed mergers on **26 March 2013**.
2. Please note that the Commission has **approved the proposed mergers subject to the following conditions:**

*For the purpose of these conditions –*

*“dealer” means a registered dealer in firearms, ammunition and/or related products and “dealership” shall have a similar meaning;*

*“products” mean firearms, ammunition and/or related products;*

*The proposed mergers between Agra Ltd and A. Rosenthal (Pty) Ltd and between Agra Ltd and Kalahari Arms and Ammunition (Pty) Ltd are approved on condition that:*

1. *Agra Ltd does not acquire any other dealer for a period of 5 (five) years following the Commission’s determination of these mergers;*
2. *Agra Ltd does not open any additional dealerships in Namibia for a period of 5 (five) years following the Commission’s determination of these mergers. For the avoidance of doubt, this does not include any Agra retail branches that may be opened in Namibia in the normal course of Agra’s business model (which includes the sale of firearms, ammunition and related products as it currently does);*
3. *Safari Den, A. Rosenthal (Pty) Ltd and Kalahari Arms and Ammunition (Pty) Ltd continue to operate as they currently do as 3 (three) separate undertakings for a period of 5 (five) years;*
4. *Agra Ltd continues to supply dealerships with products through Safari Den, A. Rosenthal (Pty) Ltd and/or Kalahari Arms and Ammunition (Pty) Ltd on a wholesale basis;*
5. *Safari Den continues to supply the firearms, ammunition and related products to dealerships operating in the retail markets at the same wholesale prices as it sells to Agra retail branches;*

6. *Safari Den continues to supply products on demand to Agra retail branches as it currently does;*
7. *Safari Den does not supply Agra retail branches with products sourced from A. Rosenthal (Pty) Ltd or Kalahari Arms and Ammunition (Pty) Ltd; and*
8. *Agra Ltd compiles a report on an annual basis and submits same to the Commission 1 (one) month subsequent to the beginning of the next succeeding financial year for a period of 5 (five) years following the Commission's determination of these mergers.*
  - 8.1. *The report must confirm that it is compliant with the aforesaid 7 (seven) conditions and provide reasonable supporting evidence as required by the Commission;*
  - 8.2. *After the expiry of the 5 (five) year period and in the event of the Commission requesting information on compliance of conditions 4 to 7 above, Agra Ltd must compile a report at the request of the Commission within one month such request.*
3. The Commission's decision is based on the grounds set out in section 47(2) of the Competition Act, 2003; specifically, that the proposed transactions are likely to prevent and lessen competition (section 47(2)(a)) and to affect the ability of small undertakings to gain access to or to be competitive (section 47(2)(f)) in the wholesale and retail markets for firearms, ammunition and related products;
4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision conditionally approving the implementation of a proposed merger if-
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**F. HANGULA**  
**ACTING CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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