Eswatini
Competition Commission

MERGER DECISIONS – FOURTH QUARTER 2019/20

The Commission examines merger notifications in order to make a determination on the effects of such transactions on competition and then either gives conditional approval, approval with conditions or prohibits the transactions based on the outcome of the analysis. This function is supported by Section 35 of the Act and Competition Commission Regulations Notice, 2010 ("Competition") as well as internal and external merger guidelines. The Commission adjudicated on the following mergers in the quarter under review.

1.1 ACQUISITION OF 30% OF ISSUED SHARE CAPITAL IN BANDAQ SOUTHERN AFRICA (PTY) LTD BY KLEOSS FUND 1 EN COMMANDITE PARTNERSHIP

1.1.1 The acquiring firm

The acquiring firm is Newco, a newly incorporated special purpose vehicle by Kleoss Fund 1. The acquiring firm is controlled by the Kleoss GP Trust. The purpose of the acquiring firm is to make investments as permitted in terms of its partnership agreement in order to provide specified returns to its partners and aims to have a diversified portfolio of investments with a breadth of exposure to different sectors. The acquiring group does not conduct any business activities in Eswatini.

1.1.2 The target firm

Bandag is a Johannesburg-based manufacturer of tyre retreading materials for commercial vehicles in Southern Africa. Bandag holds the license for the well-known global Bandag brand, which is owned internationally by Bridgestone Firestone Corporation (hereinafter referred to as "Bridgestone"). Importantly, Bandag is not owned or controlled by Bridgestone – Bandag merely has a license arrangement with Bridgestone. Bandag's core business is the manufacture of Pre-Cured Tread ("PCT") rubber, which is a layer of rubber applied onto tyre casings for retreading purposes, and Cushion Gum ("CG"), which is the bonding agent between the PCT and tyre casing. Bandag does not control any firms, whether directly or indirectly in Eswatini. From an Eswatini perspective, Bandag's operations are limited to the sale of retreading material and equipment, primarily comprising of PCT and CG, to one of its franchisees, Swazi Bandag Proprietary Limited ("Swazi Bandag") only.

1.1.3 The decision

The Commission considered the products of the firms and concluded that the relevant market in this transaction is the supply of retreading material and related equipment into Eswatini.

There are no overlaps between the activities of Kleoss Fund 1 and Bandag in the relevant market. As a result of the transaction, Kleoss Fund 1 will acquire 30% of the issued share capital of Bandag.

Post-merger, the market shares in the relevant market, market concentration, countervailing power and barriers to entry will not be affected and hence the transaction is unlikely to result in the substantial lessening or prevention of competition. The transaction was thus was approved without conditions.

1.2 ACQUISITION OF 85% SHAREHOLDING IN BLUE LABEL MOBILE GROUP (PTY) LTD BY DNI-4PL CONTRACTS (PTY) LTD.

1.2.1 The acquiring firm

The acquiring firm DNI-4PL Contracts (Pty) Ltd ("DNI-4PL") has its principal place of business at 25 Commerce Crescent, Kramerville, Sandton, Gauteng, South Africa. DNI-4PL is solely controlled by DN Invest Proprietary Limited ("DN Invest"). Both DNI-4PL and DN Invest do not have physical presence or any assets in Eswatini and do not generate any revenue in Eswatini. DNI-4PL's primary business in South Africa is the provision of technology, logistics and distribution services throughout a network of dealers, wholesalers, spaza shops, sales agents and foot soldiers, particularly in the informal trade. DNI-4PL is a distributor of pre-paid starter packs, airtime and is also engaged in retail telecommunication and distribution to the informal market throughout South Africa.

1.2.2 The target firm

The target firm, Blue Label Mobile Group (Pty) Ltd ("BLM") has its principal place of business in, Sandton, Gauteng, South Africa. BLM is controlled by Blue Label Telecoms Limited ("BLT") which holds 85% of the total issued share capital in BLM and the remaining 15% is held by Malik Investment Holdings Proprietary Limited. BLM does not directly or indirectly control any undertakings incorporated in Eswatini. BLM provides wireless communication services in Eswatini through its different business operations which are: Cellfind Proprietary Limited ("Cellfind"), Airvantage Proprietary Limited ("Airvantage SA,") AV Technology Limited ("AV Technology") and Panacea Mobile Proprietary limited ("Panacea").

I. Cellfind - is a company registered in South Africa. It is a registered wireless application service provider ("WASP") that provides mobile technology solutions such as tailored mobile applications, location based services ("LBS"); high volume, multi-channel messaging solutions to businesses; develops mobile gaming services as well as LBS-driven point of interest and mobile adverting platforms; and provides white-label mobile services to network operators.
II. Panacea – is a company also registered in South Africa and provides bulk-massaging services to inter alia enterprises, Mobile Network Operators ("MNOs") and WASPs using SMS and USD to businesses; and a "lease cost routing" virtual SMS server which allows its customers to find the most cost-effective route for sending SMS messages to their intended recipients.
III. Airvantage SA and AV Technology – operates the Airvantage prepaid airtime advance system through which MNOs can advance airtime, data or mobile money to subscribers.

1.2.3 The decision

The Commission considered the products of the firms and concluded that the relevant market is the provision of wireless communication services in Eswatini.

There are no overlaps that are created as a result of the proposed transaction in the relevant market. As a result of the transaction, DNI-4PL will own 85% of the total issued share capital of BLM. DNI-4PL will thus acquire a controlling interest over BLM.

Post-merger, the market shares in the relevant market, market concentration, countervailing power and barriers to entry will not be affected hence the transaction is unlikely to result in the substantial lessening or prevention of competition. Therefore, the transaction was approved without conditions.