



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notices

NAMIBIAN COMPETITION COMMISSION

No. 377 2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: JESIFLEX (PTY) LTD // KEVRO HOLDINGS (PTY) LTD
CASE NO.: 2017JUN0037MER

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

1. The Commission received notification of the abovementioned proposed merger on **21 June 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to substantially prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 378

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO
PROPOSED MERGER: KWIKFORM FORMWORK AND SCAFFOLDING (PTY) LTD
// RENT-A-TOILET CC AND MR WILLEM ANDRIES ALBERTS TRADING
AS MOBILOO AND NORTHERN TOILETS
CASE NO.: 2017MAY0031MER

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

1. The Commission received notification of the abovementioned proposed merger on **20 June 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to substantially prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

S. AKWEENDA**CHAIRPERSON: NAMIBIAN COMPETITION COMMISSION
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 379

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: MR. HENDRIK BENJAMIN DERKS // CORBAN INVESTMENTS CC
CASE NO.: 2017JUL0047MER

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

1. The Commission has received notification of the abovementioned proposed merger on **17 July 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.

4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 380

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: MUSA CAPITAL (PTY) LTD // SWANIB CABLES (PTY) LTD
CASE NO.: 2017MAY0034MER

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

1. The Commission has received notification of the abovementioned proposed merger on **14 June 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 381

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: JOSE ANTONIO PAIS-MACHADO AND ANA PAULA BAPTISTA DE JESUS
MACHADO // EUROPA HOF INVESTMENTS CLOSE CORPORATION
CASE NO.: 2017JUN0041MER

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

1. The Commission received notification of the abovementioned proposed merger on **23 June 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to substantially prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 382

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO
PROPOSED MERGER: JOE'S BEERHOUSE HOLDINGS (PTY) LTD
// JOE'S BEERHOUSE PROPERTIES (PTY) LTD
CASE NO.: 2017JUL0044MER

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

1. The Commission received notification of the abovementioned proposed merger on **4 July 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to substantially prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.

4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 383

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: GRETZKY BIDCO PTE. LTD // INOVA PHARMACEUTICALS (PTY) LTD
CASE NO.: 2017JUL0046MER

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

1. The Commission has received notification of the abovementioned proposed merger on **14 July 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 384

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED MERGER: STEINHOFF DOORS AND BUILDING MATERIALS (PROPRIETARY) LIMITED (“SDBM”) // BUILDING SUPPLY GROUP (PROPRIETARY) LIMITED (“BSG”)
CASE NO.: 2017APR0023MER

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

1. The Commission received notification of the abovementioned proposed merger on **19 April 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission’s decision is based on grounds that the proposed transaction is not likely to substantially prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 385

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED MERGER: WILLIE DAMES // IMBERBE LOGISTICS NAMIBIA (PTY) LTD
CASE NO.: 2017JUN0040MER

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

1. The Commission received notification of the abovementioned proposed merger on **23 June 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission’s decision is based on grounds that the proposed transaction is not likely to substantially prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.

4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 386

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO
PROPOSED MERGER: TREVALI MINING CORPORATION (“TREVALI”) //
GLCR LIMITED (“GLENCORE”)
CASE NO.: 2017MAY0030MER

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

1. The Commission received notification of the abovementioned proposed merger on **17 May 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission’s decision is based on grounds that the proposed transaction is not likely to substantially prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 387

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO
PROPOSED MERGER: MAINSTREET 1514 (PTY) LTD // MANCOSA (PTY) LTD /
REGENT BUSINESS SCHOOL (PTY) LTD
CASE NO.: 2017MAY0032MER

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

1. The Commission received notification of the abovementioned proposed merger on **23 May 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 388

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: ALLEGROW FUND (PTY) LTD // PANEL TO PANEL INSULATED PANEL
MANUFACTURERS (PTY) LTD
CASE NO.: 2017JUNE0042MER

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

1. The Commission received notification of the abovementioned proposed merger on **27 June 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 389

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: CONCORD CRANES HIRE NAMIBIA (PTY) LTD // RENT-A-PLANT CC
CASE NO.: 2017JUN0036MER

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

1. The Commission received notification of the abovementioned proposed merger on **20 June 2017**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to substantially prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

S. AKWEENDA
CHAIRPERSON: NAMIBIAN COMPETITION COMMISSION
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 390

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO
PROPOSED MERGER: SOCOTRA ISLAND INVESTMENTS (PTY) LTD
// KOMSBERG FARMING (PTY) LTD
CASE NO.: 2017MAY0025MER

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

1. The Commission received notification of the abovementioned proposed merger on **3 May 2017**.
2. Please note that the Commission has **approved the proposed merger with conditions**.

3. The Commission's decision is based on grounds that although the proposed transaction is not likely to substantially prevent or lessen competition in Namibia, as envisaged by section 47(2) (a) of the Competition Act, 2003, the proposed merger is likely to result in retrenchments as envisaged by section 47(2) (e) and in order to safeguard and promote employment considering that the merged entity will need to hire new employees when they resume grape farming activities the Commission approves the merger subject to below conditions:
1. *All 47 employees previously employed by Komsberg Farming (Pty) Ltd are to be re-employed (should they wish to do so) by Socotra Island Investments (Pty) Ltd, once the entity commences its grape farming activities. The employees are to be employed on terms and conditions of employment that are on the whole not less favorable to them than their previous terms and conditions of employment.*
 2. *Whenever recruiting or employing any person to conduct work or render any services of any nature to the merged undertaking, preference must be given to Namibian Citizens. To this end and to give effect to this condition, the merged undertaking shall draft a recruitment and employment policy indicating factors and considerations to be taken into account by the merged undertaking in its recruitment and employment procedures.*
 3. *Should the merged undertaking not be able to comply with any condition(s) above, the merged undertaking must immediately notify the Commission in a statement outlining with compelling reasons and good cause shown why the condition(s) cannot be met, what steps have been taken to comply with the condition(s) and the reason for their failure, and suggest any alternative approaches or conditions which will have the same or similar effect as intended by the initial conditions.*

COMPLIANCE PROCEDURES, MONITORING AND REPORTING OBLIGATIONS

Reporting obligations

4. *In order for the Commission to monitor compliance with the conditions the merged undertakings must, provide the Commission with a report on the following dates:*
 - 4.1 *1 October 2017, for the status as at the date of the implementation of the transaction;*
 - 4.2 *Date of commencement of grape farming activities and of re-employment of employees; and*
 - 4.3 *Thereafter, on the last day of the month, every 6 months from date referred to in 4.2 above for a period of two years.*
5. *The merger compliance reports must include the following information:*
 - 5.1. *In respect of the first compliance report dated:*
 - 5.1.1 *a list of all the employees as at the date of the report which includes their full names, positions, job grades, nationality and remuneration;*
 - 5.1.2 *A copy of all existing employment contracts for each different job grade and different position indicating the terms and conditions of employment (where employment contracts are concluded verbally these must be reduced to writing and where the terms and conditions*

of employment are not contained in the employment contracts, the merged undertaking must provide a written statement containing the terms and conditions in respect of each job grade and position.)

- 5.2 *In respect of the second compliance report at date of date of commencement of grape farming activities and of re-employment of employees:*
- 5.2.1 *a list of all the employees who were re-employed by the merged undertaking which includes their full names, positions, job grades, nationality and remuneration;*
- 5.2.2 *a list of all the employees who were not re-employed which includes their full names, positions, job grades, nationality and remuneration, and the reasons for not re-employing the employees in question;*
- 5.2.3 *A copy of the new employment contracts, under which persons are employed with the merged undertaking, for each different job grade and different position indicating the terms and conditions of employment (where employment contracts are concluded verbally, these must be reduced to writing and where the terms and conditions of employment are not contained in the employment contracts, the merged undertaking must provide a written statement containing the terms and conditions in respect of each job grade and position); and*
- 5.2.4 *a copy of the recruitment and employment policy, to be prepared in terms of condition 2 above, to be employed by the merged undertaking to govern their recruitment and employment procedures from*
- 5.3 *In respect of every compliance report submitted subsequent to the second compliance report:*
- 5.3.1 *a list of all the new employees which includes their full names, positions, job grades, nationality and remuneration;*
- 5.3.2 *a list of employees who have left the employment of the merged undertaking since date of commencement of grape farming activities and of re-employment of employees which includes their full names, positions, job grades, nationality and remuneration and reason for leaving the employment of the merged undertaking, or dismissal, if applicable.*
- 5.4. *any additional information that may be required by the Commission to monitor compliance with the condition.*

6. Definitions

- 6.1 *“The Commission” means the Namibian Competition Commission;*
- 6.2 *“Employees previously employed” means all the employees who were employed by the target undertaking prior to the implementation of the transaction;*
- 6.3 *“merged undertaking” means Socotra Island Investments (Pty) Ltd and Komsberg Farming (Pty) Ltd and any subsidiary of the said entities.*

6.4 “terms and conditions” in relation to employment contracts means any term and/or condition agreed upon between employer and employee relating to, among others, employee duties and responsibilities, work days, working hours, leave days, sick leave, remuneration, benefits such as pension and medical aid schemes or contributions thereto.

4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.

T. KAULIHOWA
CHAIRPERSON: BOARD TECHNICAL COMMITTEE
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 391

2017

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
 MERGER: CATHRAL INVESTMENTS FOUR (PROPRIETARY) LIMITED
 // HALOLI PIGGERY CLOSE CORPORATION
 CASE NO.: 2017FEB0003MER

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

1. The Commission received notification of the abovementioned proposed merger on **17 February 2017**.
2. Please note that the Commission has **approved the proposed merger with conditions**.
3. The Commission’s decision is based on grounds that although the proposed transaction is unlikely to result in the prevention or substantial lessening of competition or in any undertaking acquiring or strengthening a dominant position, it give raise to public interest concerns, in particular employment and the participation of small and medium enterprises, as envisaged by section 47(2) of the Competition Act, 2003. Given the above and in order to safeguard employment of the 23 employees in the employment of the target undertaking, to encourage participation and growth of small pork producers active in the local Namibian SME sector and those willing to join the pork subsector, and increase local pork production the Commission approves the acquisition of Haloli Piggery CC by Cathral Investments (Pty) Ltd subject to the following conditions:
 1. *There shall be no retrenchment of employees of the merged undertakings as a result of the merger for a period of 2 years.*
 2. *Should the Pig Producers Association cease to provide training to assist Micro, Small and Medium Enterprises (“MSME”) who want to partake in local pork production within the five year period following the merger, the merged undertaking must develop a training program and provide training;*

- 2.1 The merged undertaking must, 6 months (from the date the Pig Producers Association cease to provide training) submit the program to the Commission for approval;
 - 2.2 Training shall be conducted at least once a year;
 - 2.3 The merged undertaking will inform the MSME's through advertisements in at least 3 national newspapers, on radio or other media platforms inviting interested MSME's to apply:
 - 2.4 The invitation must specify what the training will entail; where it will be held; as well as give interested parties a one month period within which to apply to be a part of the training.
3. *That for as long as the Merged Undertakings remains the only commercial piggery in Namibia the Merged Undertakings shall directly supply all its customers and not through any third party.*
 4. *That for as long as the acquiring group remains the only commercial piggery in the country (and the relevant Meat Board Scheme is still in place), no pork or pork products may be imported by the acquiring group or its associates, except those required for reproduction purposes.*
 5. *The acquiring group must within 5 years from date of implementation realize the intended investment into the Namibian economy through the expansion of Haloli piggery into a 1600 sow unit subject to a minimum expenditure of N\$200 million (two hundred million Namibia Dollars).*
 6. For the sake of clarity retrenchments do not include:
 - 6.1 voluntary separation, resignation and voluntary early retirement ("voluntary separations"); and
 - 6.2 retrenchments which are merger specific, but agreed on with the Commission in writing after the approval of the merger ("merger specific retrenchments").
 7. All employees transferred from Haloli Piggery Close Corporation be employed by Cathral Investments Four (Proprietary) Limited on terms and conditions of employment that are on the whole not less favorable to them than their existing terms and conditions of employment.

COMPLIANCE PROCEDURES, MONITORING AND REPORTING OBLIGATIONS

Merger Specific Retrenchments

8. In the event that Cathral Investments Four (Proprietary) Limited identifies any potential merger specific retrenchments, it will request the Commission's agreement to these merger specific retrenchments by way of written correspondence at least one month before these retrenchments are due to be affected. Cathral Investments Four (Proprietary) Limited's written correspondence must include, but is not limited to:
 - 8.1 a list of employees likely to be affected by the merger specific retrenchments;
 - 8.2 the number and categories of employees likely to be affected by the merger specific retrenchments, as well as their job titles;

- 8.3 the reasons for the retrenchments;
 - 8.4 a description of the steps taken by Cathral Investments Four (Proprietary) Limited to avoid the merger specific retrenchments; and
 - 8.5 the intended date of the merger specific retrenchments.
9. The Commission must within 20 business days of receipt of the correspondence referred to in paragraph 8 above indicate to Cathral Investments Four (Proprietary) Limited whether:
- 9.1 it agrees to these merger specific retrenchments;
 - 9.2 does not agree to the merger specific retrenchments; or
 - 9.3 it requires further information from Cathral Investments Four (Proprietary) Limited prior to giving its consent.
10. In the event that the Commission requires further information it will, within 20 business days of receiving the aforementioned additional information, indicate in writing to Cathral Investments Four (Proprietary) Limited whether it agrees to or does not agree to these retrenchments.
11. The Commission will not unreasonably withhold its consent to the merger specific retrenchments. In the event that the Commission withholds its consent to the merger specific retrenchments it will provide Cathral Investments Four (Proprietary) Limited with its reasons for withholding its consent in writing.

Non merger specific retrenchments

12. Although the provision in clause 1 does not prohibit the merging parties from retrenching employees for non-merger specific reasons, for the sake of transparency, in the event that Cathral Investments Four (Proprietary) Limited identifies any non-merger specific retrenchments, it will inform the Commission of these potential retrenchments at least one month before these retrenchments are due to be effected. Cathral Investments Four (Proprietary) Limited's correspondence must include, but is not limited to:
- 12.1 a list of employees likely to be affected by non-merger specific retrenchments;
 - 12.2 the number and categories of employees likely to be affected by the non-merger specific retrenchments, as well as their job titles;
 - 12.3 an explanation of the reasons that give rise to the non-merger specific retrenchments (including changes to operational requirements);
 - 12.4 a description of the steps taken by Cathral Investments Four (Proprietary) Limited to avoid the non-merger specific retrenchments; and
 - 12.5 the intended date of the non-merger specific retrenchments.

Reporting obligations

13. In order for the Commission to monitor compliance with the conditions the merged undertakings must, in addition to the correspondence referred to in paragraphs 8 and 12 above, provide the Commission with reports on the following dates:

- 13.1 1 January 2018, for the status as at the date of the implementation of the transaction (initial report);
- 13.2 Thereafter on a bi-annual basis, starting 1 July 2018;
14. On compliance with any merger conditions contained herein, the merged undertaking may apply to the Commission to remove any reporting obligation, created in terms of such condition.
15. Should the merged undertaking not be able to comply with any condition(s) above, the merged undertaking must immediately notify the Commission in a statement outlining with compelling reasons and good cause shown why the condition(s) cannot be met, what steps have been taken to comply with the condition(s) and the reason for their failure, and suggest any alternative approaches or conditions which will have the same or similar effect as intended by the initial condition(s).
16. The merger compliance reports must include but is not limited to the following information:
 - 16.1 The program to be submitted for approval (only for the report relevant to the quarter within which the Pig Producers Association has ceased to provide its annual training)
 - 16.2 Regarding employment;
 - 16.2.1 a list of all the employees as at the date of the report which includes their full names, positions, job grades and remuneration;
 - 16.2.2 copies of the existing (pre-proposed transaction) employment contracts for each different job grade and different position indicating the terms and conditions of employment (where employment contracts are concluded verbally these must be reduced to writing and where the terms and conditions of employment are not contained in the employment contracts, the merged undertaking must provide a written statement containing the terms and conditions in respect of each job grade and position.) employment contracts for each different (this condition is only relevant for the first report);
 - 16.2.3 copies of the new employment contracts, under which persons are employed with the merged undertaking, for each different job grade and different position indicating the terms and conditions of employment (where employment contracts are concluded verbally, these must be reduced to writing and where the terms and conditions of employment are not contained in the employment contracts, the merged undertaking must provide a written statement containing the terms and conditions in respect of each job grade and position);
 - 16.2.4 a list of the employees retrenched from the time that the merger was approved or since the period covered by the most recent merger compliance report submitted to the Commission;
 - 16.2.5 the reasons for the retrenchments; and
 - 16.3 Proof that they are registered with the Meat Board of Namibia (i.e. the requisite permits)

- 16.4 The acquiring group structure including all subsidiaries and associated/affiliated undertakings;
- 16.5 Monthly production figures and orders received, including name of customers, the quantity bought, and total purchase value;
- 16.6 An investment plan setting out proposed investments into the piggery and the duration; and
- 16.7 any additional information that may be required by the Commission to monitor compliance with the condition.

7. Definitions

- 7.1 *The term “merged undertakings” means Cathral Investments Four (Proprietary) Limited and Haloli Piggery Close Corporation and any subsidiary of the said entities.*
- 7.2 *The term MSME means an MSME as defined in the National Policy on MSME, November 2016.*
- 7.3 *The term acquiring group means the total of all the undertakings as defined in rule 27(1)(a)(b)(c).*
- 7.4 *“The Commission” means the Namibian Competition Commission*
- 7.5 *“terms and conditions” in relation to employment contracts means any term and/or condition agreed upon between employer and employee relating to, among others, employee duties and responsibilities, work days, working hours, leave days, sick leave, remuneration, benefits such as pension and medical aid schemes or contributions thereto.*

4. Note that the Commission has the authority in terms of section 48(1) of the Act to revoke a decision 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.*

S. AKWEENDA

**CHAIRPERSON: NAMIBIAN COMPETITION COMMISSION
NAMIBIAN COMPETITION COMMISSION**
