



GOVERNMENT GAZETTE

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MINISTRY OF INDUSTRIALISATION, TRADE AND SME DEVELOPMENT

No. 6

2018

NOTICE OF APPLICATION FOR REVIEW OF DECISION OF NAMIBIA COMPETITION COMMISSION IN RELATION TO PROPOSED MERGER: NAMIBIA POST AND TELECOM HOLDINGS LIMITED AND SAMBA DUTCHCO B.V.: COMPETITION ACT, 2003

In terms of section 49(2) of the Competition Act, 2003 (Act No. 2 of 2003) read with Rule 32(1) of the Rules published under Government Notice No. 41 of 03 March 2008, I -

- (a) give notice of the application for review in relation to the proposed merger between Namibia Post and Telecom Holdings Limited and Samba Dutchco B.V., the particulars of which are set out in the Schedule, and
- (b) invite interested parties to make written submissions, to me with regard to the matter to be reviewed within 14 days after the date of publication of this notice, by delivering the written submissions to the Office of the Minister, Ministry of Industrialisation, Trade and SME Development, Brendan Simbwaye Square, Block B, Room 400, C/O Dr. Kenneth Kaunda and Goethe Street, Windhoek.

I. NGATJIZEKO
MINISTER OF INDUSTRIALISATION,
TRADE AND SME DEVELOPMENT

Windhoek, 18 January 2018

SCHEDULE

PROPOSED MERGER NOTICE - NAMIBIA POST AND TELECOM HOLDINGS LIMITED // SAMBA DUTCHCO B.V. CASE NO. 27JUL0043MER

1. Please take notice that the Competition Commission (“the Commission”) has on the 3 July 2017 received a merger notification from the Namibia Post and Telecom Holdings Limited (“NPTH”) in terms of section 44(1) of the Competition Act, 2003 (Act No. 2 of 2003).
2. Notice is hereby given that I have on 20 December 2017, in terms of Section 49(1) of the Competition Act, 2003 (Act No. 2 of 2003), received an application from the firm H.D. Bossau & Co acting on behalf of NPTH requesting for review of the decision of the Commission in relation to the merger concerned.
3. The purpose of the review is to review the Commission’s prohibition of the proposed merger. The Commission’s decision is based on grounds that the proposed transaction is likely to substantially prevent or lessen competition in the Namibian mobile telephony market, as envisaged by section 47(2) of the Competition Act, 2003.
4. The Commission’s reasons for the prohibition of the proposed merger, are as follows:
 - 4.1 The Commission identified the relevant market as the market for the provision of mobile telecommunications services in Namibia. The proposed merger will result in NPTH strengthening its dominant position in the relevant market through the acquisition of the 34% shareholding currently held by the target undertaking. The proposed merger would therefore result in NPTH increasing its shareholding in Mobile Telecommunications Limited (“MTC”) from 66% to 100% and acquiring sole control over MTC. The proposed merger is likely to result in the creation of a near monopolistic market structure in the mobile telecommunication market.
 - 4.2 The investigation identified that the merger is likely to result in Telecom Namibia Limited (“Telecom Namibia”), through its business unit TN Mobile and MTC having less incentive to compete because of their common ownership and control by NPTH. Common ownership is unlikely to result in NPTH suffering financial losses when competition between Telecom Namibia and MTC, its two wholly owned subsidiaries, is eliminated. NPTH is therefore unlikely to have an incentive to push Telecom Namibia and MTC to compete vigorously post-merger.
 - 4.3 The proposed merger is likely to adversely affect the telecommunication sector. The investigation revealed that MTC is the dominant mobile telecommunications provider, while Telecom Namibia is the dominant fixed line communications provider. Post –merger NPTH will wholly control both these undertakings and consequently control the Namibian telecommunication network. This is likely to raise entry barriers in the relevant market as the proposed merger is likely to deter entry.
 - 4.4 The parties to the proposed merger did not put forth any benefits to the public that would outweigh any of the envisaged detriment that is likely to result from the implementation of the proposed merger as contemplated in section 47(2)(c) of the Competition Act.
5. In order to provide background and context, a copy of the review application of NPTH which sets out the grounds of review, may be obtained from the Ministry of Industrialisation, Trade and SME Development, Brendan Simbwaye Square, Block B, Room 235, Corner of Dr. Kenneth Kaunda & Goethe Streets, Windhoek, Namibia.