



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## General Notices

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### NAMIBIAN COMPETITION COMMISSION

No. 91

2020

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO  
PROPOSED MERGER: WUM PROPOERTIES LTD T/A MODEL PICK 'N PAY //  
NATURAL VALUE FOODS NAMIBIA (PTY) LTD  
CASE NO.: 2019NOV0050MER

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 **22 November 2019**.
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.*

**P. CARLSON**  
**BOARD CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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### NAMIBIAN COMPETITION COMMISSION

No. 92

2020

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO  
PROPOSED MERGER: HOPSOL AFRICA (PTY) LTD // ALPHA NAMIBIA  
INDUSTRIES RENEWABLE POWER LIMITED  
CASE NO.: 2019NOV0054MER

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 **18 December 2019**.
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.*

**P. CARLSON**  
**BOARD CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 93

2020

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED  
MERGER: HOPSOL POWER GENERATION (PTY) LTD // ALPHA NAMIBIA INDUSTRIES  
RENEWABLE POWER LIMITED  
CASE NO.: 2019NOV0055MER

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 **18 December 2019**.
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.*

**P. CARLSON**  
**BOARD CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 94

2020

**NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED  
MERGER: PEPSICO INC // PIONEER FOOD GROUP LIMITED  
CASE NO.: 2019OCT0033MER**

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 **21 October 2019**.
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.*

**P. CARLSON  
BOARD CHAIRPERSON  
NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 95

2020

**NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED  
MERGER: CHINA ROAD AND BRIDGE CORPORATION // PUENTES Y CALZADAS  
GRUPO DE EMPRESAS S.A.  
CASE NO.: 2019OCT0035MER**

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

1. The Commission received notification of the abovementioned proposed merger on **18 October 2019**.
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.*

**P. CARLSON**  
**BOARD CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 96

2020

NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED  
MERGER: CENEC ENERGY NAMIBIA PROPRIETARY LIMITED // SERTUM ENERGY  
NAMIBIA PROPRIETARY LIMITED  
CASE NO.: 2019NOV0052MER

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 **28 November 2020**.
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.*

**P. CARLSON**  
**BOARD CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 97

2020

**NOTICE OF RECEIPT OF APPLICATION FOR EXEMPTION IN RESPECT OF CERTAIN  
RESTRICTIVE PRACTICES: NAMIBIA TRADE FORUM (“NTF”)  
CASE NO: 2019JUNE0006EXEMP**

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 27(3), Rule 21(2))

1. In terms of section 27(3) of the Competition Act, 2003 (Act No. 2 of 2003) (the Competition Act”), the Namibian Competition Commission (“the Commission”) hereby gives notice that the Namibia Trade Forum (“NTF”) has in terms of section 27(1) of the Competition Act, applied that it (NTF) as well as the producers, distributors and retailers listed in paragraph 3 below (hereinafter jointly referred to as “the Applicants”) be exempted from certain provisions of Part 1 of Chapter 3 of the Competition Act.
2. NTF is an agency established by the Cabinet of the Republic of Namibia in order to facilitate consultation and cooperation between the government and the private sector on trade and investment matters.
3. The exemption application relates to a decision by an association of undertakings (NTF) and agreement(s) between the following producers, distributors and retailers:

<b>PRODUCERS</b>	<b>DISTRIBUTORS</b>	<b>RETAILERS</b>
Namibia Dairies (Pty) Ltd	CIC (Pty) Ltd	Choppies Supermarkets Namibia (Pty) Ltd
FLM Fruits & Vegetables (Pty) Ltd	PICK ‘N PAY NAMIBIA (PTY) LTD	
		SPAR Namibia (Pty) Ltd

4. The Applicants are seeking to be exempted in respect of a decision and agreement(s) relating to a voluntary local sourcing scheme whereby:
  - 4.1 Producers, distributors and retailers will register with the NTF;
  - 4.2 Producers will share information on their available volumes;
  - 4.3 Distributors and retailers will commit to source a certain percentage of the producers volumes;
  - 4.4 Distributors and retailers will provide proof of the volumes bought to the NTF;
  - 4.5 There will be “bi-monthly meetings to monitor and evaluate the scheme”; and
  - 4.6 The above measures will be reviewed every three months at “Daily Forum” meetings.
5. The exemption application is in respect of the formal (commercial farming) market not the informal market. The exemption would furthermore exclude skimmed milk, flavoured milk, cultures and butter.
6. The Applicants request that the abovementioned decision and or agreement(s) be exempted from the provisions of Chapter 3 of the Competition Act, for a period of five (5) years.

7. The Applicants seek to be exempted from application of the following provisions of Chapter 3 of the Competition Act in accordance with section 27 of the Competition Act and Rule 21 of the Rules made under the Competition Act:
  - 7.1 Section 23(3)(a), insofar as the decisions and agreements contemplated could be perceived as directly or indirectly fixing purchase or selling prices or any other trading conditions;
  - 7.2 Section 23(3)(b), insofar as the decisions and agreements contemplated could be perceived as dividing markets by allocating customers, suppliers, areas or specific types of goods or services;
  - 7.3 Section 23(3)(e), insofar as the decisions and agreements contemplated could be perceived as limiting or controlling production, market outlets or access, technical development or investment; and
  - 7.4 Section 23(3)(f), insofar as the decision and agreements contemplated could be perceived as applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage.
8. Interested persons are invited to submit to the Commission, within 30 days as from the date of this notice, any queries or written representations that they may wish to make concerning the application.
9. Such representations should be directed to Ms. Nangosora Ashley Tjipitua, Director of Enforcement, Exemptions and Cartels, contact number: 061-224 622, email: ashley.tjipitua@nacc.com.na or alternatively hand delivered at the Namibian Competition Commission, Office No.14, BPI House, Mezzanine floor, Independence Avenue, Windhoek.

**V. NDALIKOKULE  
SECRETARY TO THE COMMISSION  
NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 98

2020

**NOTICE OF RECEIPT OF APPLICATION FOR EXEMPTION IN RESPECT OF CERTAIN  
RESTRICTIVE PRACTICES: PAYMENTS ASSOCIATION OF NAMIBIA (“PAN”)  
CASE NO: 2019AUG0004EXEMP**

**Competition Act, 2003 (Act No. 2 of 2003)  
(Section 27(3), Rule 21(2))**

1. In terms of section 27(3) of the Competition Act, 2003 (Act No. 2 of 2003) (the Competition Act”), the Namibian Competition Commission (“the Commission”) hereby gives notice that the Payments Association of Namibia (“PAN”) has in terms of section 27(1) of the Competition Act, applied that it (PAN) as well as Bank Atlantico, Bank BiC, Bank of Namibia, Bank Windhoek, First National Bank Namibia, Letshego Bank Namibia, Nampost, Nedbank Namibia, Standard Bank Namibia and TrustCo Bank Namibia (hereinafter jointly referred to as “the participating banks”) be exempted from certain provisions of Part 1 of Chapter 3 of the Competition Act.

2. PAN is a statutory body established in terms of Section 3 of the Payment System Management Act, 2003 (Act No. 18 of 2003) (the “PSM Act”) and is mandated with the management, administration, operation, regulation and supervision of payment, clearing and settlement systems in Namibia. Meanwhile the participating banks conduct business as envisaged in terms of the Banking Institutions Act, 1998 (Act No. 2 of 1998).
3. The exemption application relates to a decision by an association of undertakings (PAN) and agreement(s) between the participating banks concerning the collective determination of interchange fees. PAN and the participating banks are therefore seeking to be exempted in respect of a decision and/or agreement(s) pertaining to the existing interchange fees.
4. PAN and the participating banks request that the decision and/or agreement(s) in respect of the existing interchange fees be exempted from the provisions of Chapter 3 of the Competition Act, for a period of three (3) years. In a nutshell, PAN and the participating banks propose to continue utilising the current interchange fees for a period of three (3) years.
5. Specifically, PAN and the participating banks in accordance with section 27 of the Competition Act and Rule 21 of the Rules made under the Competition Act seek to be exempted from the application of section 23(3)(a) of the Competition Act, insofar as the decisions and agreements contemplated could be perceived as directly or indirectly fixing purchase or selling prices or any other trading conditions.
6. Interested persons are invited to submit to the Commission, within 30 days as from the date of this notice, any queries or written representations that they may wish to make concerning the application.
7. Such representations should be directed to Ms. Nangosora Ashley Tjipitua, Director of Enforcement, Exemptions and Cartels, contact number: 061-224 622, email: ashley.tjipitua@nacc.com.na or alternatively hand delivered at the Namibian Competition Commission, Office No.14, BPI House, Mezzanine floor, Independence Avenue, Windhoek.

**V. NDALIKOKULE**  
**SECRETARY TO THE COMMISSION**  
**NAMIBIAN COMPETITION COMMISSION**

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