



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notices

NAMIBIAN COMPETITION COMMISSION

No. 816

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
ANR SOLAR (UK) LIMITED // THE NOERAP TRUST // EMESCO ALPHA SOLAR PARK
(PTY) LIMITED // ROSH PINAH SOLAR PARK (PTY) LIMITED

CASE NO.: 2024AUG0049MER

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 August 2024**.
2. The Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. 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.*

A. P. ITHINDI
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 817

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
CHOPPIES SUPERMARKETS NAMIBIA (PROPRIETARY) LIMITED // BUSINESS OF
DEHLI MINIMARKET AND BAKERY CC & DEHLI FAST FOODS CC

CASE NO.: 2024SEP0053MER

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 **9 September 2024**.

2. The Commission has **approved the proposed merger with conditions.**
3. The Commission's decision is based on the grounds that although the proposed merger is not likely to prevent or lessen competition in Namibia or result in the acquiring or strengthening of a dominant position, it is likely to affect employment negatively due to a change in management; and as such, is as envisaged by section 47(2) of the Competition Act, 2003.

1. DEFINITIONS

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings:

- 1.1. **“Acquiring Undertaking”** means Choppies Supermarkets Namibia (Proprietary) Limited or the total of all the undertakings as defined in rule 27(1)(a)(b)(c);
- 1.2. **“Approval Date”** means the date on which the Merger is approved by the Commission;
- 1.3. **“Commission”** means the Namibian Competition Commission;
- 1.4. **“Competition Act”** means the Competition Act, 2003 (Act No. 2 of 2003);
- 1.5. **“Conditions”** mean the conditions set out herein;
- 1.6. **“Days”** means any calendar day other than a Saturday, a Sunday or an official public holiday in Namibia (i.e., business days);
- 1.7. **“Employment contracts”** mean any term and/or condition agreed upon between acquiring undertaking (as employer) and employee, relating to, amongst others, employee duties and responsibilities, workdays, working hours, leave days, sick leave, remuneration, and benefits such as pension and medical aid schemes or contributions thereto, and any other applicable benefits.
- 1.8. **“Implementation Date”** means the date, expected to be subsequent to the Approval Date, on which the Merger is implemented by the Merged Undertaking;
- 1.9. **“Merged Undertaking”** means the Acquiring Undertakings and the Target Undertaking;
- 1.10. **“Merger”** means the implementation of the Proposed Transaction;
- 1.11. **“Proposed Transaction”** means the transaction that was notified to the Commission on 9 September 2024 that concerns the acquisition by the Acquiring Undertaking of the Target Undertaking;
- 1.12. **“Target Undertaking”** means the business of Dehli Minimarket and Bakery CC, and Dehli Fast Foods CC;
- 1.13. **“Terms and conditions”** mean (amongst others) a minimum remuneration of N\$8.00 per hour for service department, N\$9.00 per hour for other departments and N\$13.88 per hour for supervisory level, with the current 45-hour week.

2. CONDITIONS TO THE APPROVAL OF THE MERGER

- 2.1. Employment condition (the **“Employment Condition”**)

- 2.1.1. No merger specific retrenchments by the merged undertaking for a period of three years after the Implementation Date.
- 2.1.3. The condition shall not apply to any employee who may in the ordinary course of business be fired, be dismissed, retire, or resign.
- 2.2. Re-employment condition (the “**Re-employment Condition**”)
 - 2.2.1 In terms of the business agreement concluded between the acquiring undertaking and the target undertaking, the merged undertaking shall ensure the re-employment of all employees of the target undertaking, on terms no less favourable than what existed under the target undertaking and prevailed on the approval date.

3. COMPLIANCE PROCEDURES, MONITORING AND REPORTING OBLIGATIONS

3.1. Non- merger specific retrenchments

- 3.1.1. For the sake of transparency, in the event that the merged undertakings identify 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. The merged undertakings correspondence must include, but is not limited to:
 - (a) a list of employees likely to be affected by non-merger specific retrenchments;
 - (b) the number and categories of employees likely to be affected by the non-merger specific retrenchments, as well as their job titles;
 - (c) an explanation of the reasons that give rise to the non-merger specific retrenchments (including changes to operational requirements);
 - (d) a description of the steps taken by the merged undertakings to avoid the non-merger specific retrenchments; and
 - (e) the intended date of the non-merger specific retrenchments.

3.2. Reporting obligations

- 3.2.1. In order for the Commission to monitor compliance with the conditions the merged undertakings must, in addition to any other documents referred to elsewhere in these conditions, provide the Commission with reports on the following dates:
 - 3.2.2.1. 60 calendar days after the date of determination of the merger by the Commission, of the status as to the date of the implementation of the transaction;
 - 3.2.1.2. Thereafter on a biannual basis from the date of the initial report referred to in paragraph 3.2.1.1 for a period of 3 years.
 - 3.2.1.3. The merger compliance reports must include but is not limited to the following information:

Regarding employment;

- (a) a list of all the employees as at the date of the report which includes their full names, positions, job grades and remuneration;
- (b) copies of the new employment contracts, under which the employees of the target undertaking 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 (which condition is only relevant for the first report);
- (c) 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;
- (d) the reasons for the retrenchments; and
- (e) any additional information that may reasonably be required by the Commission to monitor compliance with the condition.

3.3. General

- 3.3.1. The Merged Undertaking shall inform the Commission in writing of the Implementation Date within 5 (five) Days of its occurrence.
 - 3.3.2. Should, for any reason, the merged undertaking decides or is prevented from implementing the merger, the merged undertaking shall inform the Commission in writing of such decision and/or prevention.
 - 3.3.3. The merged undertaking shall submit affidavits (deposed to by its managing director(s)) in accordance with the reporting dates referred to above, to update the Commission and / or confirm its compliance with the conditions for the duration of all conditions.
 - 3.3.4. The Commission may also request any additional information that may reasonably be required by the Commission to monitor compliance with the Conditions.
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*

A. P. ITHINDI
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 818

2024

**NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
IBC SOLAR AG // SWSA HOLDINGS (PROPRIETARY) LIMITED**

CASE NO.: 2024SEP0055MER

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 the **11 September 2024**.
2. The Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. 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.*

**A. P. ITHINDI
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 819

2024

**NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
INDONGO ENERGY (PTY) LTD AND WILLEM CORNELIUS SCHALKWYK//BACHMUS
OIL AND FUEL SUPPLIES (PTY) LTD**

CASE NO.: 2024OCT0058MER

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 **15 October 2024**.
2. The Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.

4. 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.*

A. P. ITHINDI
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 820

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
MR. AHVZ LOUW / MRS. M JE VAN NIEKERK // NAMAQUA NORTH MEAT CC

CASE NO.: 2024SEP0051MER

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 the **3 September 2024**.
2. The Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. 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.*

A. P. ITHINDI
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 821

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
ONGAVA CONSERVATION HOLDINGS LLC // ONGAVA GAME RESERVE (PROPRIETARY)
LIMITED AND OTHERS

CASE NO.: 2024SEP0056MER

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

1. The Commission has received notification of the above-mentioned proposed merger on **27 September 2024**.
2. The Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. 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.*

A. P. ITHINDI
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 822

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
MERGER NOTIFICATION: ADUMO TECHNOLOGIES (PTY) LTD // INNERVATION VALUE
ADDED SERVICES (PTY) LTD

CASE NO: 2024SEP0054MER

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 **10 September 2024**.
2. The Commission has **approved the proposed merger without conditions**.

3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. 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.*

A. P. ITHINDI
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 823

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
MERGER NOTIFICATION – BIG K HOLDINGS (UK) LIMITED // CARBO NAMIBIA
(PROPRIETARY) LIMITED

CASE NO: 2024AUG0048MER

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 **27 August 2024**.
2. The Commission has **approved the proposed merger with conditions**.

1. DEFINITIONS

- 1.1 “**Act**” means the Namibian Competition Act, 2003 (Act 2 of 2003);
- 1.2 “**Acquiring Undertaking**” means Big K Holdings (UK) Limited, a private company incorporated in terms of the law of the United Kingdom with its principal place of business at Unit 20, Milmead Industrial Estate, Millmead Road, London, N17 9QU, United Kingdom;
- 1.3 “**Approval date**” means the date on which the Merger is approved by the Commission;
- 1.4 “**Commission**” means the Namibian Competition Commission;
- 1.5 “**Conditions**” means the conditions set out in this Annexure A (only);
- 1.6 “**Day**” means any day excluding a Saturday, Sunday, or a Namibian public holiday;
- 1.7 “**Date of implementation**” means the date on which the Proposed Transaction is implemented by the Merged Undertaking;

- 1.8 “**Employee**” includes all persons employed on a temporary, fixed term or permanent basis;
- 1.9 “**Merger Specific Retrenchments**” means a retrenchment reasonably led by an imminent change in policy solely related to the merger and such change in policy could not be rational or lawful response to economic, market or operational conditions that could equally have been embarked on in the absence of the merger. For the avoidance of doubt, Merger Specific Retrenchments do not include: any voluntary separation, resignation, dismissal as a result of a disciplinary process and voluntary early retirement; any other retrenchment on grounds recognised in law, including any retrenchment on operational grounds which are not related to the merger;
- 1.10 “**Merged Undertaking**” means the Acquiring and Target Undertaking and any subsidiary or holdings of the said entities, subsequent to the merger;
- 1.11 “**Target Undertaking**” means Carbo Namibia (Pty) Ltd, a private company incorporated in accordance with the laws of the Republic of Namibia and having its principal place of business at Erven 483 and 484, Grootfontein Extension 1, Grootfontein, Namibia.

2. EMPLOYMENT

- 2.1 There shall be no retrenchments of employees of the target undertaking as a result of the merger for a period of three years from the date of approval of the merger.
- 2.2 All current employees of the target undertaking to be transferred into the merged undertaking are to be employed on terms and conditions of employment that are on the whole not less favourable to them than their existing terms and conditions of employment.
- 2.3 The merged undertaking will create a minimum of 50 jobs within 24 months of the date of implementation of the merger.

3. MERGER-SPECIFIC RETRENCHMENTS

- 3.1 In the event that the merged undertaking identifies any potential 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. The merged undertaking’s written correspondence in terms of this condition must include, but is not limited to:
- 3.1.1 a list of employees likely to be affected by the merger specific retrenchments;
 - 3.1.2 the number and categories of employees likely to be affected by the merger specific retrenchments, as well as their job titles;
 - 3.1.3 the reasons for the retrenchments;
 - 3.1.4 a description of the steps by the merged undertakings to avoid the merger specific retrenchments;
 - 3.1.5 the intended date of the merger retrenchments.
- 3.2 The Commission must within 20 days business days of receipt of the correspondence referred to in paragraph 4 above indicate to the merged undertakings whether:

- 3.2.1 it agrees to these merger specific retrenchments;
 - 3.2.2 does not agree to the merger specific retrenchments; or
 - 3.2.3 it requires further information from the merged undertakings prior to giving its contents.
- 3.3 In the event that Commission requires further information it will, within 20 business days of receiving the aforementioned additional information, indicate in writing to the merged undertaking whether it agrees to or does not agree to these retrenchments.
- 3.4 The Commission will not reasonably 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 the merged undertaking with reasons for withholding its consent in writing.

4. NON-MERGER SPECIFIC RETRENCHMENTS

- 4.1 For the sake of transparency, in the event that the merged undertaking 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. The merged undertakings correspondence must include, but is not limited to:
- 4.1.1 a list of employees likely to be affected by non-merger specific retrenchments;
 - 4.1.2 the number and categories of employees likely to be affected by the non-merger specific retrenchments, as well as their job titles;
 - 4.1.3 an explanation of the reasons that give to the non-merger specific retrenchments (including changes to operational requirements)
 - 4.1.4 a description of the steps taken by the merged undertakings to avoid the non-merger specific retrenchments; and
 - 4.1.5 the intended date of the non-merger specific retrenchments.

5. VALUE-ADDITION

- 5.1 The acquiring undertaking shall, as a top priority, develop, equip, renovate and invest in the infrastructure and machinery of the target undertaking for the purposes of value addition to ensure high turnaround times for the production of charcoal and charcoal related products.
- 5.2 The merged undertaking shall comply with the condition in paragraph 5.1. within 3 years of the date of implementation of the merger.

6. REPORTING OBLIGATIONS

- 6.1 In order for the Commission to monitor compliance with the conditions, the merged undertaking must, in addition to the correspondence referred to in paragraph 3 and 4 above, provide the Commission with reports as it pertains to the compliance with these conditions, on the following dates:
- 6.1.1 Within 10 days of the implementation of the transaction, alternatively, the decision by the acquiring undertaking and target undertaking, not to implement the merger;

6.1.2 Thereafter, within six (6) months post-implementation of the proposed merger, for the status of jobs created and recruitments thereof and value-addition undertaken (second report);

6.1.3 Thereafter, on a bi-annual basis.

7. REGARDING EMPLOYMENT

7.1 The merger compliance reports must include but is not limited to the following information:

7.1.1 a list of all the employees as at the date of the report which includes their full names, positions, job grades and their remuneration;

7.1.2 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 contracts, the merged undertaking must provide a written statement containing the terms and conditions in respect of each job grade and position;

7.1.3 copies of the new employment contracts, under which employees of the target undertaking 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 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;

7.1.4 a list of the employees retrenched from the time the merger was approved or since the period covered by the most recent merger compliance report submitted to the Commission;

7.1.5 the reasons for the retrenchments; and

7.1.6 any additional information that may be reasonably required by the Commission to monitor compliance with the conditions.

3. The Commission's decision is based on the grounds that although the proposed merger is not likely to prevent or lessen competition in Namibia, the conditions are informed by the merger notification as it relates to employment creation and value addition, as envisaged by section 47(2) of the Competition Act, 2003.

4. 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.*

A. P. ITHINDI
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 824

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
MERGER NOTIFICATION – NICOLAAS MARTHINUS JANSEN VAN RENSBURG /
DUNCAN DUKHIE / PIETER JACOBUS JANSEN VAN RENSBURG/ ELRICK DE KLERK //
LEWCOR SALT TRANSPORT

CASE NO: 2024SEP0052MER

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 **3 September 2024**.
2. That the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. 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.*

A. P. ITHINDI
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION
