



MERGER DECISION NO 50 OF 2024

DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION BY TATAKI MINING COMPANY (PTY) LTD OF CERTAIN ASSETS OF THE BUSINESS OF TATI NICKEL MINING COMPANY (PTY) LTD (IN LIQUIDATION)

Introduction of the Merging Parties

Pursuant to section 53(4)(a)(ii) of the Competition Act, 2018 ("the Act"), notice is hereby given on the decision made by the Competition and Consumer Authority ("the Authority") in relation to the proposed acquisition by Tataki Mining Company (Pty) Ltd ("Tataki" or the "Acquiring Enterprise"), of certain assets of the business of Tati Nickel Mining Company (Pty) Ltd (In Liquidation) ["Tati" or the "Target Enterprise"].

For completeness, the proposed transaction concerns the acquisition by Tataki of certain assets of Tati, more particularly certain assets constituting the Phoenix Mining Complex and associated assets and infrastructure. The proposed transaction is pursuant to the Asset Purchase Agreement between the parties to the proposed merger and signed on the 28th day of June 2024.

The Acquiring Enterprise is a company incorporated in accordance with the Laws of Botswana and it is a Special Purpose Vehicle (SPV) established for purposes of the proposed transaction. Tataki is wholly owned by NIU Mining (Botswana) Limited ("NIU Mining"), company formed under the Laws of Botswana. NIU Mining is wholly owned by NIU Mining Financing Ltd ("NIU Financing"), a company formed under the Laws of Mauritius, hereinafter the "NIU Group".

On the other hand, the Target Enterprise is a company also incorporated in accordance with the Laws of Botswana and having its principal place of business at the Matsiloje Road, Phoenix Site, Matsiloje, Botswana. Tati is wholly owned by BCL Investments (Pty) Ltd (In Liquidation), a limited liability company incorporated in Botswana which is in turn wholly owned by BCL Limited (In Liquidation) ("BCL"). BCL is in turn wholly owned by the Government of Botswana.

Relevant Markets

In terms of the market activities, the assessment of the merger indicates that the Merging Parties are currently not active in similar or related markets in Botswana. Thus, the proposed merger is not expected to result in a reduction in the number of players in the market and hence will not affect the current structure of the market under consideration.

For completeness, Tataki is a SPV established for purposes of the proposed transaction while Tati is currently under liquidation therefore is not active in any market except that it is engaged in a business transaction to dispose of its assets which amounts to a gain or reward.

On the other hand, the Target Enterprise consists of certain business assets related to the Phoenix Mining Complex and associated assets and infrastructure (collectively, the Phoenix Mine) that were operated by Tati. This is an open pit mine built on a sulfide deposit of copper and nickel ores and it is located 35 kilometers to the east of Francistown.

Tati has been in liquidation since October 2016. Notwithstanding Tati being placed in liquidation in 2016, the Phoenix Mining Complex has been under care and maintenance since 2003 and as a result there has been no mining activities being carried out at the mine. Prior to its liquidation, Tati produced Nickel-Copper Cobalt-Platinum (Ni-Cu-Co-PGM) group metals.

Competitive Analysis and Public Interest

The proposed merger is not expected to result in a reduction in the number of players in the market and hence will only stimulate the level of competition through additional rivalry into the relevant market. As such, the implementation of the proposed merger is not likely to result in a substantial lessening of competition. Furthermore, the proposed merger will not have any negative effect on public interest matters in Botswana as per the provisions of section 52(2) of the Competition Act 2018.

The Determination

The Authority determined through the analysis of the facts of the merger that the structure of the relevant market will not adversely change upon implementation of the proposed merger nor endanger the continuity of service in the market under consideration.

Pursuant to the provision of section 53 of the Act, the Authority has unconditionally approved the proposed acquisition by Tataki Mining Company (Pty) Ltd, of certain assets of the business of Tati Nickel Mining Company (Pty) Ltd (In Liquidation).

However, as stated under Section 61 of the Act, this approval does not override or negate any other mandatory statutory approvals or processes that any of the parties to this merger must comply with under the Laws of Botswana.

Dated at Gaborone on this 6th day of December 2024.

Tebelelo Pule, Chief Executive Officer, Competition and Consumer Authority,
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