



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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N\$6.00

WINDHOEK - 13 April 2018

No. 6569

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## Government Notice

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### MINISTRY OF INDUSTRIALISATION, TRADE AND SME DEVELOPMENT

No. 67 2018

#### NOTICE OF DETERMINATION BY MINISTER IN RELATION TO REVIEW OF DECISION OF COMMISSION IN RELATION TO PROPOSED MERGER: NAMIBIA POST AND TELECOM HOLDINGS LIMITED // SAMBA DUTCHCO B.V: COMPETITION ACT, 2003

In terms of subsection (4)(a)(ii) of section 49 of the Competition Act, 2003 (Act No. 2 of 2003), I give notice that I have determined -

- (a) to overturn the decision of the Commission in relation to the proposed merger between Namibia Post and Telecom Holdings Limited and Samba Dutchco B.V; and
- (b) that the proposed merger may proceed subject to the conditions set out in the Schedule.

**T. TWEYA**  
**MINISTRY OF INDUSTRIALISATION,**  
**TRADE AND SME DEVELOPMENT**

Windhoek, 13 April 2018

**SCHEDULE**

6 March 2018

NOTICE OF DETERMINATION MADE BY MINISTER IN RELATION TO REVIEW THE  
NAMIBIAN COMPETITION COMMISSION'S DECISION OF PROPOSED MERGER:  
NAMIBIA POST AND TELECOM HOLDINGS LIMITED // SAMBA DUTCHCO B.V  
CASE NO.: 27JUL0043MER

1. Please take note that the Namibian 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. 3 of 2003).
2. Please take further note that on 20 December 2017, in terms of Section 49(1) of the Competition Act, the Minister received an application from the firm H.D. Bossau & Co acting on behalf of NPTH requesting for a review of the decision of the Commission in to prohibit the merger. The Commission’s decision was 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.

**Determination:**

3. In terms of section 49(2) of the Competition Act, I invited written submissions and took note of those received.
  4. In terms of section 49(3)(a) of the Competition Act, I hereby determine to overturn the decision of the Commission which prohibited the merger of Namibia Post And Telecom Holdings Limited // Samba Dutchco B.V (hereinafter, together, the Merged Entity) subject to the following conditions:
    - 4.1 Within three (3) months of the approval of the transaction, MTC must procure the services of a sponsor to facilitate the listing on the NSX.
    - 4.2 Within (6) months of NPTH acquiring the MTC shares NPTH must dispose of not less than 20% of MTC’s shares by means of public offering.
    - 4.3 The disposal of 20% referred in paragraph 4.2 must be notified to CRAN and the Competition Commission to ensure the necessary regulatory approvals are obtained to ensure any market failure is mitigated.
    - 4.4 NPTH MTC shall provide annual compliance reports to CRAN and the Competition Commission detailing their compliance to these Conditions shall satisfy themselves on the degree and extent of compliance by NPTH MTC and report to the Minister.
    - 4.5 In the even apparent non-compliance by either NPTH MTC this shall be dealt with in terms of section 48(1)(b) of the Competition Act, 2003 (Act No. 2 of 2003)
    - 4.6 MTC shall include a statement in the Annual Report and/or Integrated Report by its Chief Executive Officer that will indicate that the respective entity has complied with the above conditions.
  5. I here, therefore, give you notice of the determination made by the Minister in relation to the merger, both to the Commission and to all the Parties involved in the proposed merger.
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