



REPUBLIC OF NAMIBIA

MINISTRY OF TRADE AND INDUSTRY

STATEMENT ABOUT THE WAL-MART / MASSMART MERGER

BY

HON. DR. HAGE GEINGOB

MINISTER OF TRADE AND INDUSTRY

NATIONAL ASSEMBLY

THURSDAY, 15 MARCH 2012

HON. DEPUTY SPEAKER,

HON. MEMBERS OF THE NATIONAL ASSEMBLY,

I rise to share with this August House, information about the merger between Wal-Mart and Massmart.

This August House would recall that, on the 14th November, 2011 the Supreme Court found in favour of the Minister of Trade and Industry and the Namibian Competition Commission and overturned the High Court decision granting approval to the merger of Wal-Mart Stores Incorporated and Massmart Holdings Limited Merger without conditions.

The Supreme Court referred the matter to me as Minister of Trade and Industry to review the Commission's decision to decide whether to approve the merger with or without conditions or to prohibit the merger.

I subsequently undertook to review the conditions within the prescribed four (4) months as set out in section 49(3) of the Competition Act.

This section of the Act confers powers upon me to:

- a) Overturn the decision of the Commission;**
- b) Amend the decision of the Commission by ordering restrictions or including conditions; or**
- c) Confirm the decision of the Commission.**

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In complying with the four months as prescribed by the Act and bearing in mind Article 18 of the Namibian Constitution, which deals with just administrative actions, I invited interested parties through the Government Gazette, No. 4837 published 18 November 2011, as well as in the media, to make written submissions pertaining to the said merger.

The closing date for such submissions was 02 December, 2011. At a public hearing on 12 December, 2011, I received further submissions from interested parties.

I have subsequently considered all submissions and have made the determination required from me, as outlined in the Notice of Determination annexed to this submission.

With this determination I have confirmed the decision of the Commission which approves the merger subject to the following amended conditions. These conditions form part of the approval:

- 1. The Merged Entity shall ensure that there are no retrenchments, based on the Merged Entity's operational requirements in Namibia, resulting from the Transaction, for a period of two years from the effective date of the Transaction.**

For the sake of clarity, retrenchments do not include voluntary separation arrangements, voluntary early retirement packages, and dismissals following unreasonable refusals to be redeployed in accordance with the provisions of the Labour Act, Act 11 of 2007, as amended.

- 2. The Merged Entity shall honour existing labour agreements and shall continue to recognise representative trade unions in Namibia to represent the bargaining units, for a period of two years from the effective date of the Transaction.**

For the sake of clarity, the union currently recognized by Massmart Holdings Ltd is the Namibian Food and Allied Workers Union.

- 3. The Merged Entity shall consult with the Minister of Trade and Industry with regard to the establishment of a programme of activities for domestic supplier development which the Merged Entity shall implement. The Merged Entity shall obtain the approval of the Minister of Trade and Industry for such programme within 12 months of the date of this determination.**

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HON. MEMBERS OF THE NATIONAL ASSEMBLY,

For the sake of clarity;

- a) the approval of the merger takes effect from the date of this determination;**
- b) the programme shall be implemented to improve the competitiveness of domestic suppliers;**
- c) activities in the programme shall include skills development, technical support and assistance in relation to: production capacity, technology and inputs; meeting national and international quality standards; marketing and distribution;**
- d) the programme shall prioritise small undertakings, in particular undertakings owned or controlled by historically disadvantaged persons; and**

e) the beneficiaries of the programme may not be required to have an exclusive trading relationship with the merged entity.

The conditions attached to the approval of this merger are imposed taking into account public interest considerations relating to potential risks to Namibia's economy and industrialization, employment as well as the growth of the Small and Medium Enterprise sector. I consider that the conditions strike an appropriate balance between the potential economic benefits of the merger and public interest considerations.

It is recommended that this August House take note of the above developments.

I THANK YOU