

Merger Notification from COMESA

Acquisition of BMI Offshore Bank Limited (BMIO) by Nibur (Seychelles) Ltd

Case Number: FCA 45

Date: DECEMBER 2014

Complaint: Issues concerning Concurrent Jurisdiction specifically matters in relation to the Competition Law were discussed in a meeting conducted at the Ministry of Finance, Trade and Investment where representatives from the Fair Trading Commission, the Central Bank and the Ministry of Finance were in attendance. During the same meeting representatives from the Fair Trading Commission became privy to information regarding an acquisition which took place in the banking sector.

The Minister of Finance, Mr. Pierre Laporte informed the Commission that BMI Offshore was acquired by Nibur (Seychelles) Ltd. It was also further confirmed during the meeting that all information pertaining to the acquisition would be provided to the Commission by the Central Bank. Consequently, on the 23rd of April 2014 the Commission officially received a letter dated 15th April 2014 from the Central Bank of Seychelles to inform the Commission of the already granted approval by same for the proposed acquisition to be effected.

Commission's Assessment: Upon receipt of the letter from the Central Bank and seeing that mergers and acquisitions are also catered for under the Fair Competition Act, 2009 sections 21- 24, the Commission proceeded to conduct a preliminary enquiry. The latter was to be undertaken in a bid to confirm the market shares of the acquisition in order to determine whether a proper assessment should be undertaken as per the FCA, 2009.

A letter and several telephone calls were exchanged between the Commission and the Central Bank in a bid to obtain the requested information but to no avail.

Conclusion: Due to the non-cooperativeness of the Central Bank, the Commission was left with no other option but to close the case as the bank was the primary source of information concerning the proposed acquisition.

It should also be noted that the Central Bank being the regulator for transactions in and possessing the expertise in the banking sector had already granted approval to the acquisition. In view of the above the case was closed.