THE GOVERNMENT GAZETTE OF MAURITIUS

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LEGAL SUPPLEMENT

See General Notice No. 547

General Notice No. 547 of 2021

LEGAL SUPPLEMENT

The undermentioned Proclamation and Government Notices are published in the Legal Supplement to this number of the *Government Gazette*:

To fix the date of the coming into operation of the Climate Change Act 2020.

(Proclamation No. 2 of 2021)

The Sugar Investment Trust (Election of Directors and Representatives) (Amendment No. 2) Regulations 2021.

(Government Notice No. 90 of 2021)

The Financial Services (Special Purpose Fund) (Amendment) Rules 2021.

(Government Notice No. 91 of 2021)

The Financial Services (Consolidated Licensing and Fees) (Amendment No. 2) Rules 2021.

(Government Notice No. 92 of 2021)

Prime Minister's Office,
Port Louis.

This 17th April, 2021.

General Notice No. 548 of 2021

THE QUARANTINE ACT 2020

Order made by the Prime Minister under section 3 of the Quarantine Act 2020

1. WHEREAS by virtue of General Notice No. 529 of 2021, I ordered, pursuant to paragraph 2 of the said Order, that persons resident in an area as described in the Appendix to the said Order shall, at no time, travel outside that area and, persons not resident in an area as described in the Appendix to the said Order shall, at no time, enter that area.

2. NOW, I order that persons resident in an area as described in the Appendix to this Order shall, at no time, travel outside that area and, persons not resident in an area as described in the Appendix to this Order shall, at no time, enter that area.

3. This Order shall be in addition to, and not in derogation from, the Order made by virtue of General Notice No. 512 of 2021.

4. General Notice No. 529 of 2021 is revoked.

5. This Order shall come into operation on 17 April 2021.

P. K. JUGNAUTH
Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues, Outer Islands and Territorial Integrity

16 April 2021

APPENDIX

PART I

Highlands General Area

Bounded by –

(a) Northern Side
Bagatelle Valentina Link Road

(b) Eastern Side
Belle Terre and Hermitage

(c) Southern Side
Hermitage Road

(d) Western Side
M2 Motorway from its junction with Bagatelle Valentina Link Road to its junction with Parisot Road

PART II

Surinam
Riambel
Chemin Grenier
Chamouny
Chamarel
Rivière des Galets

First Publication

General Notice No. 549 of 2021

MINISTRY OF ENVIRONMENT, SOLID WASTE MANAGEMENT AND CLIMATE CHANGE

NOTICE FOR PUBLIC INSPECTION OF EIA REPORT BY MONT CHOISY SMART CITY LTD

Notice is hereby given under Section 20 of the Environment Protection Act 2002 by the Department of Environment, Ministry of Environment, Solid Waste Management and Climate Change that an application for an EIA Licence has been submitted on **8 April 2021** under Section 18(1) of the Act for a scheduled undertaking and that the EIA report shall be opened for public inspection.

(a) The undertaking concerns **the proposed construction of a medical clinic, namely " C-Care Clinic Grand Baie " to be operated by the Company C-Care (Mauritius) Ltd within the Mont Choisy Smart City on a plot of land of an extent of 6329m² by Mont Choisy Smart City Ltd.**

(b) The location of the proposed undertaking is **at Mon Choisy, in the District of Pamplemousses**.

(c) The report may be inspected during normal office working hours (i.e. 08.45 hrs to 12.00 hrs and 12.30 hrs to 16.00 hrs) at the Resource Centre of the Department of Environment, Ground Floor, Ken Lee Tower, Cnr. Barracks and St. Georges Streets, Port Louis and at the **District Council of Pamplemousses**.

(d) The report may also be inspected on the portal of the Economic Development Board at the following address: ***https://business.edbmauritius.org*** and public comments should be submitted online at the above address by **8 May 2021** at latest.

14 April 2021

Department of Environment
Ministry of Environment, Solid Waste
Management and Climate Change

First Publication

General Notice No. 550 of 2021

MINISTRY OF ENVIRONMENT, SOLID WASTE MANAGEMENT AND CLIMATE CHANGE

NOTICE FOR PUBLIC INSPECTION OF EIA REPORT BY MOKA CITY LTD

Notice is hereby given under Section 20 of the Environment Protection Act 2002 by the Department of Environment, Ministry of Environment, Solid Waste Management and Climate Change that an application for an EIA Licence has been submitted on **8 April 2021** under Section 18(1) of the Act for a scheduled undertaking and that the EIA report shall be opened for public inspection.

(a) The undertaking concerns **the proposed parcelling out of a plot of land of an extent of 370,398.9m² into 69 lots for commercial/light industrial/mixed use purposes and 7 green spaces at L'Avenir, Moka by Moka City Ltd.**

(b) The location of the proposed undertaking is **at L'Avenir, in the District of Moka.**

(c) The report may be inspected during normal office working hours (i.e. 08.45 hrs to 12.00 hrs and 12.30 hrs to 16.00 hrs) at the Resource Centre of the Department of Environment, Ground Floor, Ken Lee Tower, Cnr. Barracks and St. Georges Streets, Port Louis and at the **District Council of Moka.**

(d) The report may also be inspected on the portal of the Economic Development Board at the following address: ***https://business.edbmauritius.org*** and public comments should be submitted online at the above address by **8 May 2021** at latest.

14 April 2021

Department of Environment
Ministry of Environment, Solid Waste
Management and Climate Change

General Notice No. 551 of 2021

WAQF REGISTERED WITH BOARD OF WAQF COMMISSIONERS

No	Name of Waqf	Name of Waqif	Name of Mutawalli	Particulars of nature of Waqf Property
522	Cassam & Bibi Oumah Ramgoolam Waqf-UI-Lillah	Mr Cassam Ramgoolam Mrs Bibi Oumah Auckbourallee	Mr Abdul lzam Nandally	A portion of land of the extent of (232.48 m²) (PIN 1305060417), situated at Grand Bay in the district of Pamplemousses

Original Waqfnama Registered and Transcribed on 18th August 2016 TV 201608/001307

First Amendment Registered on 12th August 2020 TV 202008/000722

Second Amendment Registered on 13th December 2020 TV202012/002591.

Registered with the Board of Waqf Commissioners on the 21 January 2021 Vide Minute 6985 - No. 16

26th January 2021

Hon. M. Iqbal Maghooa
Chairman
Board of Waqf Commissioners

General Notice No. 552 of 2021

YEARLY LEVY ON WAQF PROPERTIES

(Section 49(7) of the Muhammadan Waqf Ordinance of 1941)

Notice is hereby given that at a Meeting of the Board of Waqf Commissioners held on 17th December 2020, it has been decided to levy for the year 2021 on all Waqf properties registered with the Board, a sum of money, representing two and a half per cent (2½ %) on the Gross Total Income of each Waqf property.

Board of Waqf Commissioners
4th Floor, Toorawa Centre
c/r Jummah Mosque & SSR Sts.
Port Louis.

22nd December 2020

(Hon. Iqbal Maghooa)
Chairman

General Notice No. 553 of 2021

NOTICE UNDER SECTION 319(3) OF THE COMPANIES ACT 2001

Notice is hereby given that Mr Askurn Rundhir, of Subash Road (SBM), Lallmatie (After Health Track), Director of the company **"five star travel company limited" (File No. C093615)** has pursuant to Section 319(1) of the Companies Act 2001, applied for restoration of the company on the Register on the ground that the company owns assets.

Objection, if any, to the proposed restoration of the company shall be filed with the Registrar of Companies not later than 6 May 2021.

Date: 6 April 2021

Registrar of Companies
One Cathedral Square
Jules Koenig Street
PORT LOUIS

General Notice No. 554 of 2021

NOTICE UNDER SECTION 319(3) OF THE COMPANIES ACT 2001

Notice is hereby given that Mr Gokhool Seilendra, of C/o Sinews Global Ltd, 15th Floor, Citadelle Mall, Sir Virgil Naz Street, Port Louis, Director of the company **"LA CIGALE ET LE DODO LTD" (File No. C115756)** has pursuant to Section 319(1) of the Companies Act 2001, applied for restoration of the company on the Register on the ground that the company was still carrying on business.

Objection, if any, to the proposed restoration of the company shall be filed with the Registrar of Companies not later than 6 May 2021.

Date: 6 April 2021

Registrar of Companies
One Cathedral Square
Jules Koenig Street
PORT LOUIS

General Notice No. 555 of 2021

NOTICE UNDER SECTION 319(3) OF THE COMPANIES ACT 2001

Notice is hereby given that Mrs Mudhoo Ruwayda Bibi, of 62 A Horace De Cailla, Carreau Lalo, Valee Des Pretres, Director of the company **"TITANIUM EVENTS CLUB LTD" (File No. C116978)** has pursuant to Section 319(1) of the Companies Act 2001, applied for restoration of the company on the Register on the ground that the company was still carrying on business and owns assets.

Objection, if any, to the proposed restoration of the company shall be filed with the Registrar of Companies not later than 6 May 2021.

Date: 6 April 2021

Registrar of Companies
One Cathedral Square
Jules Koenig Street
PORT LOUIS

General Notice No. 556 of 2021

NOTICE UNDER SECTION 319(3) OF THE COMPANIES ACT 2001

Notice is hereby given that Mrs Bhowarkan Mariam Bibi Khan, of Royal Road, Grand Bel Air, Director of the company **"MON TRESOR CAR RENTAL LTD" (File No. C139615)** has pursuant to Section 319(1) of the Companies Act 2001, applied for restoration of the company on the Register on the ground that the company owns assets.

Objection, if any, to the proposed restoration of the company shall be filed with the Registrar of Companies not later than 6 May 2021.

Date: 6 April 2021

Registrar of Companies
One Cathedral Square
Jules Koenig Street
PORT LOUIS

General Notice No. 557 of 2021

NOTICE UNDER SECTION 319(3) OF THE COMPANIES ACT 2001

Notice is hereby given that Mr Ramdianee Muhammad Shamim, of Royal Road, Terre Rouge, Director of the company **"AS RAMDIANEE LTD" (File No. C140396)** has pursuant to Section 319(1) of the Companies Act 2001, applied for restoration of the company on the Register on the ground that the company was still carrying on business.

Objection, if any, to the proposed restoration of the company shall be filed with the Registrar of Companies not later than 6 May 2021.

Date: 6 April 2021

Registrar of Companies
One Cathedral Square
Jules Koenig Street
PORT LOUIS

General Notice No. 558 of 2021

NOTICE UNDER SECTION 319(3) OF THE COMPANIES ACT 2001

Notice is hereby given that Ms Fatehmamode Zehrein, of Chemin La Foret, Floreal, Director of the company **"ZEHREIN COMPANY LTD" (File No. C145167)** has pursuant to Section 319(1) of the Companies Act 2001, applied for restoration of the company on the Register on the ground that the company was still carrying on business.

Objection, if any, to the proposed restoration of the company shall be filed with the Registrar of Companies not later than 6 May 2021.

Date: 6 April 2021

Registrar of Companies
One Cathedral Square
Jules Koenig Street
PORT LOUIS

General Notice No. 559 of 2021

NOTICE UNDER SECTION 319(3) OF THE COMPANIES ACT 2001

Notice is hereby given that Mr De La Houssaye Gregory Patrick Marin, of Unit C18 Mascarene, Royal Park Beach Resort, Balaclava, Director of the company **"GVA MASCARENE LTD" (File No. C157578)** has pursuant to Section 319(1) of the Companies Act 2001, applied for restoration of the company on the Register on the ground that the company owns assets.

Objection, if any, to the proposed restoration of the company shall be filed with the Registrar of Companies not later than 6 May 2021.

Date: 6 April 2021

Registrar of Companies
One Cathedral Square
Jules Koenig Street
PORT LOUIS

General Notice No. 560 of 2021

NOTICE UNDER SECTION 319(3) OF THE COMPANIES ACT 2001

Notice is hereby given that Mrs Mangaroo Marie Juliana Jessica, of D 29, Avenue Marguerite La Tour Koeing, Pointe Aux Sables, Port Louis, Director of the company **"TREE J DECO ENTERPRISE CO LTD" (File No. C159975)** has pursuant to Section 319(1) of the Companies Act 2001, applied for restoration of the company on the Register on the ground that the company was still carrying on business.

Objection, if any, to the proposed restoration of the company shall be filed with the Registrar of Companies not later than 6 May 2021.

Date: 6 April 2021

Registrar of Companies
One Cathedral Square
Jules Koenig Street
PORT LOUIS

General Notice No. 561 of 2021

NOTICE UNDER SECTION 319(3) OF THE COMPANIES ACT 2001

Notice is hereby given that Mr Florens Andrew Michael, of Plot 197 Avenues Des Sarpes, Albion, Director of the company "**Perspectives Renovation & Construction Ltd**" **(File No. C079766)** has pursuant to Section 319(1) of the Companies Act 2001, applied for restoration of the company on the Register on the ground that the company was still carrying on business.

Objection, if any, to the proposed restoration of the company shall be filed with the Registrar of Companies not later than 12 May 2021.

Date: 12 April 2021

Registrar of Companies
One Cathedral Square
Jules Koenig Street
PORT LOUIS

General Notice No. 562 of 2021

NOTICE UNDER SECTION 319(3) OF THE COMPANIES ACT 2001

Notice is hereby given that Mr Noel Julien Robert Henri, of C/o Yatch Services Around the World, Grand Bay, Director of the company "**JYC Fine Wine (Mauritius) LTD**" **(File No. C163015)** has pursuant to Section 319(1) of the Companies Act 2001, applied for restoration of the company on the Register on the ground that the company was still carrying on business.

Objection, if any, to the proposed restoration of the company shall be filed with the Registrar of Companies not later than 12 May 2021.

Date: 12 April 2021

Registrar of Companies
One Cathedral Square
Jules Koenig Street
PORT LOUIS

General Notice No. 563 of 2021

competition commission

shaping markets, furthering progress

Decision of the Competition Commission of 05 April 2021

NON CONFIDENTIAL

Relating to proceedings under section 56 of the Competition Act 2007 further to an investigation opened by the Executive Director referred to as 'INV 048 into the Potential acquisition of a majority stake in Medine Distillery Co. Ltd by New Goodwill Investment Co. Ltd.

CC/DS/0041

THE COMMISSION

Mr. M.A. Bocus	-	Chairperson
Mr. A. Mariette	-	Vice-Chairperson
Mr. C. Seebaluck	-	Commissioner
Mrs. M. B. Rajabally	-	Commissioner
Mrs. V. Bikhoo	-	Commissioner

Having regard to –

the Competition Act 2007,

the Competition Commission Rules of Procedure 2009,

the Guidelines published under Section 38 of the Competition Act 2007,

the Final Report of Investigation of the Executive Director dated 28.11.2019 under section 51 of the Competition Act 2007 upon completion of his investigation into the potential acquisition of a majority stake in Medine Distillery Co. Ltd by New Goodwill Investment Co. Ltd, referenced INV 048,

the Public Hearing convened by the Commissioners on 27.01.2021,

the written submissions made by New Goodwill Investment Co. Ltd and

the oral submissions made by the parties at the Public Hearing,

We, the abovenamed commissioners have on this day proceeded to make the following determination in the above matter.

I INTRODUCTION

1. This decision relates to an investigation ('the Investigation') made by the Executive Director pursuant to section 51 of the Competition Act 2007 (the 'Act') into the potential acquisition of a majority stake in Medine Distillery Co. Ltd by New Goodwill Investment Co. whereby the Executive Director has expressed the view that the proposed acquisition will give rise to a merger situation under sections 47 and 48 of the Competition Act 2007 ('the Act')

2. The Executive Director's Final Report of the Investigation bears reference INV 048 and is dated 28.11.2019 (the 'Final Report').

3. The findings of the Executive Director as borne out in the 'Final Report') are that the abovementioned potential acquisition of a majority stake in Medine Distillery Co. Ltd by New Goodwill Investment Co. will give rise to a merger situation that is likely to result in a substantial lessening of competition.

4. Pursuant to section 56 of the Act, a public hearing was held on 27 January 2021 where the parties made their respective submissions.

5. Based on the Final Report and the representations and submissions made by the parties, the Commission has proceeded to make the following determination pursuant to section 61 of the Act.

II BACKGROUND

i. The Parties

6. New Goodwill Investment Co. Ltd ('NGI'), incorporated in 1961 is a public company having around 250 shareholders. NGI is a major shareholder in New Goodwill Company which is a bottler and distributor of alcoholic beverages. NGI directly and indirectly owns 33.3% shares in New Goodwill Company. NGI considers New Goodwill Company to be its operating arm. NGI also holds 33.33 % shares in Medine Distillery, a distiller. NGI also owns 33.33% shares in Grays Distilling, which is another distiller.

7. Medine Distillery Co. Ltd ('Medine Distillery'), incorporated in 1998 is a public limited company. Medine Distillery is a distiller which produces Extra Neutral Alcohol from molasses. The Extra Neutral Alcohol produced by Medine Distillery is used to produce alcoholic products. Medine Distillery has two (2) shareholders namely EUCDOS (66.6%) and NGI (33.33%).

8. Grays Distilling Ltd ('Grays Distilling'), incorporated in 1988 is a private limited company. Grays Distilling is a distiller that produces extra neutral alcohol which is used to produce alcoholic products such as vodka, gin and local rum. NGI and Terra Brands hold 33.3% and 66.6% shares respectively in Grays Distilling.

ii. The proposed transaction

9. NGI intends to acquire 33.33 % of the share capital of Medine Distillery from EUCDOS thus increasing its shareholding in Medine Distillery from 33.33 % to 66.66% (the 'proposed transaction').

III LEGAL FRAMEWORK

10. To determine whether a transaction gives rise to a merger situation which is amenable to review under the Act, we have to determine-

    a) whether the transaction qualifies as a merger situation under section 47 of the Act;
    b) whether the enterprises party to the merger situation meet the applicable statutory market share threshold under s. 48(a) and s. 48(b); and
    c) whether the merger situation has resulted or is likely to result in, a substantial lessening of competition (section 48(c)).

a) Merger situation

11. A merger situation is defined under s47(1) of the Act as '*the bringing together under common ownership and control of 2 or more enterprises of which one at least carried its activities, in Mauritius, or through a company incorporated in Mauritius.*'

12. It follows from the above that a merger situation will arise: -

    (i) where 2 or more enterprises are involved;
    (ii) where the enterprises are being brought under common ownership and control and;
    (iii) where there exists a territorial nexus with Mauritius.

13. Section 2 (1) of the Act defines *'enterprise'* as '*any person, firm, partnership, company, association or other juridical person, engaged in commercial activities for gain or reward, and includes their branches, subsidiaries, affiliates or other entities directly or indirectly controlled by them.*'

14. As per section 47 (2) of the Act, enterprises are regarded as being under common control where they are – *(a) enterprises of interconnected bodies corporate; (b) enterprises carried on by 2 or more bodies corporate of which one person has or groups of persons have control; or (c) 2 distinct enterprises, one carried on by a body corporate and the other carried on by a person having control of that body corporate.*

15. Section 47 (3) provides that, any person may be treated as bringing an enterprise under his control where-

    (a) *He becomes able to control or materially to influence the policy of the enterprise, but without having a controlling interest in it* (termed as '<u>material influence</u>' as per the Guidelines[1]);

    (b) *Being already able to control or materially to influence the policy of the enterprise, he acquires a controlling interest in it* (termed as '<u>controlling interest</u>' as per the Guidelines[2]); or

    (c) *Being already able materially to influence the policy of the enterprise, he becomes able to control that policy* (termed as '<u>de facto control</u>' as per the Guidelines[3]).

16. It is clear from the above provisions that where the transaction confers an increase in the level of control, the three thresholds staring from the lowest being material influence, de facto control and controlling interest, the transaction may be treated as

[1] The Competition Commission Guidelines on mergers
[2] The Competition Commission Guidelines on mergers
[3] The Competition Commission Guidelines on mergers

a person bringing an enterprise under his control and this may be considered as a merger situation[4].

17. The three different levels of control are extensively explained in the Competition Commission Guidelines on Mergers (the 'Guidelines on Mergers') and will not be reproduced here but they will be referred to, as may be required.

b) Reviewability of merger situations

18. Section 48 of the Act stipulates that a merger situation shall be subject to review by the Commission where the parties to the transaction will have 30 % of the market share post transaction or where one of the parties to the transaction already had 30 % of the market share prior to the transaction.

c) Substantial lessening of Competition

19. The third condition is whether the transaction has resulted in or is likely to result in a substantial lessening of Competition (SLC) as stipulated under section 48 (c) of the Act. The Guidelines on Mergers provide that an SLC will occur whenever there is a loss in rivalry. In order to determine whether a merger situation is likely to lead to an SLC, the Guidelines on Merger provides that an assessment of the competitive effects of the transaction must be carried out. Four (4) elements need to be defined/assessed to determine the competitive effects and they are: -

(i) Market definition
(ii) Counter-factual (what would have happened without the merger)
(iii) Assessment of entry constraints
(iv) Theory of harm and effects

Remedies in merger control

20. Section 61 of the Act provides that *the Commission may give the enterprise such directions as it considers necessary, reasonable and practicable to –*

(i) Remedy, mitigate or prevent the substantial lessening of competition; and
(ii) Remedy, mitigate or prevent any adverse effects that have resulted from, or are likely to result from, the substantial lessening of competition.

21. Section 61(2) of the Act stipulates that *in the case of a prospective merger, a direction may require an enterprise to -*

[4] Provided that 2 or more enterprises are also being brought under common ownership.

(a) desist from completion or implementation of the merger insofar as it relates to a market in Mauritius;
(b) divest such assets as are specified in the direction within the period so specified in the direction, before the merger can be completed or implemented;
(c) adopt, or desist from, such conduct, including conduct in relation to prices, as is specified in the direction as a condition of proceeding with the merger.

IV THE INVESTIGATION AND FINDINGS OF THE EXECUTIVE DIRECTOR

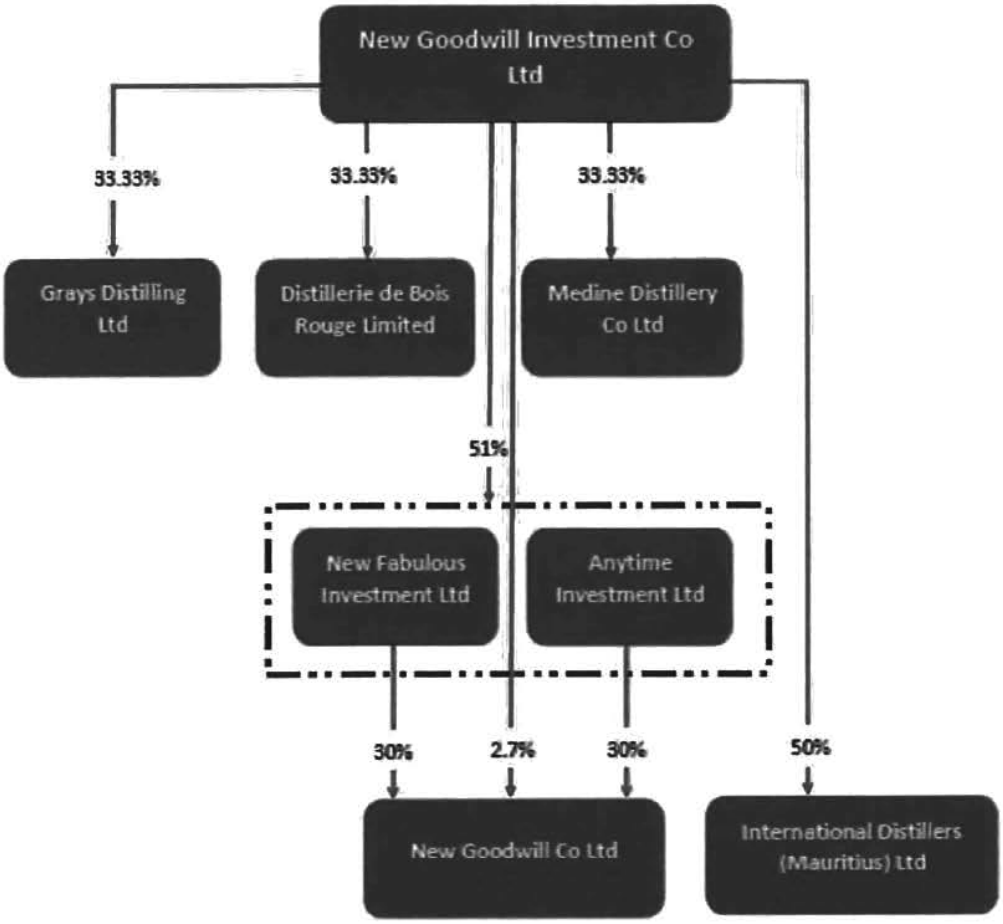
22. The Executive Director has carried out a thorough and extensive investigation with respect to the proposed transaction in order to determine whether the proposed transaction qualifies as a merger situation under s.47 of the Act and whether such transaction is a merger situation which is reviewable under s.48 of the Act. The lengthy assessment of the proposed transaction by the Executive Director has been produced in the Final Report from page 35 to page 103.

Does the proposed transaction qualify as a Merger Situation under Section 47 of the Act?

23. For the proposed transaction to qualify as a merger situation, the three conditions imposed under section 47 of the Act must be present. To recap, a merger situation will arise where at least 2 enterprises are involved; the enterprises are being brought together under common ownership and control; and territorial nexus with Mauritius wherein the activity of at least one of the enterprises is carried on in Mauritius or through a body corporate.

24. It is worth reproducing here the chart below which provide a schematic description of the shareholding structure of NGI[5].

[5] P.40 of the Final Report.



25. The Executive Director concluded that the different entities found within the shareholding structure of NGI, and which are Medine Distillery[6], New Goodwill Company[7], International distillers[8], and Grays Distilling[9] as depicted in the diagram above, are companies which are engaged in commercial activities in exchange of a revenue/reward with a territorial nexus in Mauritius. These entities are therefore enterprises as provided under s.2 of the Act.

26. The Executive Director concluded that, NGI by virtue of its shareholding of 33.3% in New Goodwill Company, of 50 % in International Distillers and of 33.33% in Grays Distilling is likely to confer control over the latter companies[10]. With its 33.33 % shareholding in Medine Distillery, NGI already have a control (material influence) on Medine Distillery.

27. Now, through the proposed transaction, NGI will increase its control over Medine Distillery and consequently will be bringing Medine Distillery and the three enterprises

[6] Paragraph 4.5-4.8 of the Final Report
[7] Paragraph 4.25 of the Final Report
[8] Paragraph 4.27 of the Final Report
[9] Paragraph 4.32 of the Final Report
[10] Paragraph 4.50

namely International Distillers, New Goodwill Company and Grays Distilling under its common ownership and control.

28. Since all the elements given in s.47 of the Act are present, the Executive Director concluded that the transaction is in the nature to amount to a merger situation.

Is the Merger Situation subject to review by the Commission?

29. The next step is to determine whether this merger situation is subject to review by the Commission. As stipulated in s.48 of the Act, a merger situation shall be subject to review where the parties to the transaction will have 30 % market share post transaction or where one of the parties to the transaction already has 30 % of the market share before the transaction.

Market definition

30. To determine the market share threshold as provided at s.48, it is important to define the relevant market and calculate the market shares. According to the 'Competition Commission Guidelines on market definition and the calculation of markets shares', the relevant market is the set of products within a defined geographical area in which competition occurs. It is the narrowest candidate market for which a monopolist of all the products in the candidate market would be able to profitably increase the price of the product by a small but significant, non-transitory amount (typically 5-10%) over a sustained period. The Executive Director used this concept which he applied to potential markets in which the acquirer and the target operate.

31. The Executive Director carried out the market definition exercise from a demand-side and supply-side substitution perspective termed as demand-side substitution and supply-side substitution respectively with regards to mainly the product dimension (products which are in the market) and geographic dimension (geographical area within which competition occurs) of the market.

32. At the upstream level, the Executive Director identified the focal product to be extra neutral alcohol which is produced by distillers. Following his assessment[11], the Executive Director was of the view that Omnicane Bioethanol Distillery, Grays Distilling and Medine Distillery forms part of the same market since the extra neutral alcohol that they produce can be substituted from both demand or supply perspectives[12]. The Executive Director also found that the extra neutral alcohol produced form molasses is a separate market from agricultural rum or alcohol

[11] Based on paragraphs 5.6 to 5.23 of the Final Report
[12] Paragraph 5.24 of the Final Report

produced from cane juice or cane[13] for all the reasons provided at paragraphs 5.25-5.32 of his Final Report.

33. The Executive Director also conducted an assessment to determine the extent to which extra neutral alcohol which is exported could be considered to be part of the same market as extra neutral alcohol sold on the local market and found that the relevant market must be confined to Mauritius for all the reasons provided at paragraphs 5.33 – 5.41 of his Final Report.

34. The downstream market relates to the production and sales of bottled rum at the wholesale level. At the downstream market, the Executive Director identifies the focal products to be local rum, cane spirit and cane liquor. Following his assessment[14], he concludes that relevant product market is the market for the wholesale[15] supply of bottled rum (which includes local rum, cane spirit and can liquor, and their coloured version) in Mauritius[16]. The main suppliers in this market are New Goodwill Company, International Distillers and Grays Inc.

35. To recap, as per the Executive Director's report, the relevant upstream market is the market for the supply of extra neutral alcohol (made from molasses) in Mauritius and the players on this market are the three distillers namely Medine Distillery, Grays Distilling and Omnicane Bioethanol Distillery. The main buyers at the upstream market are bottlers who are the main buyers of extra neutral alcohol. They are New Goodwill Company, International Distillers and Grays Inc.

Market shares

36. The Executive Director determined the market shares of the upstream market based on figures provided by the three players. It has been observed that for the period between 2016 and 2018, Medine Distillery had an average market share of [redacted] % [confidential] and Grays Distilling had the remaining [redacted] % [confidential][17]. Most of the output from Omnicane Bioethanol Distillery is exported[18].

37. It is to be noted that the product of Omnicane Bioethanol Distillery is supplied to Grays Distilling and Medine Distillery [redacted] [Confidential to Omnicane Bioethanol Distillery]. Based on the information gathered from Omnicane Bioethanol Distillery, its market share is [redacted] %.

[13] Paragraph 5.32 of the Final Report
[14] Paragraphs 5.47 to 5.90 of the Final Report
[15] Paragraph 5.89 of the Final Report
[16] Paragraph 5.94 of the Final Report
[17] Paragraph 5.100 of the Final Report
[18] Paragraph 5.98 of the Final Report

38. At the downstream market which is the market for the production (bottling) and supply of bottled rum in Mauritius, the market share[19] of New Goodwill Company is [redacted] % [confidential]; the market share of International distillers is [redacted] % [confidential]; the market share of Grays Inc Ltd is [redacted] % [confidential] while [redacted] % [confidential] of market share is detained by other bottlers. The combined market share of International Distillers and New Goodwill Company, upon which New Goodwill Investment has control within the meaning of the Act is about [redacted] % [confidential].

39. The Executive Director has accordingly concluded that the market share threshold of 30 % as stipulated at s.48 of the Act is met in both the upstream and downstream level of the identified markets to the investigation.

40. The Executive Director has also highlighted that it suffices that only one party to the merger situation meeting the market share threshold to make the merger situation reviewable under the Act. Moreover, in the present case, the market share threshold is met at both upstream and downstream levels.

Substantial Lessening of Competition

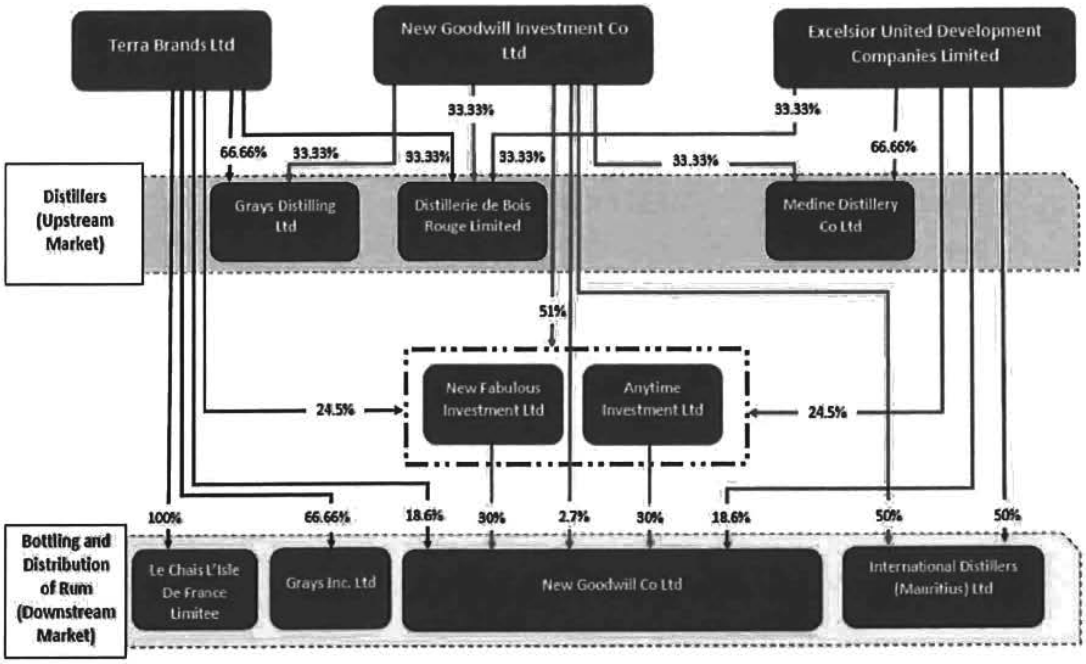
41. Other than the market share threshold, the second criterion required to make a merger situation reviewable is that the merger situation has resulted or is likely to result in a substantial lessening of Competition within the identified relevant market.

42. As already mentioned above, four (4) elements that need to be defined/assessed to determine the competitive effects is the market definition, the counter-factual, the assessment of entry constraints and theory of harm and effects.

43. The Executive Director believes that the merger situation is likely to result in substantial lessening of competition. He has assessed the competition concerns with respect to the four elements, the assessment of the market definition having already been set out above.

44. It may be apposite to reproduce here the table below which shows the structural links existing within the industry.

[19] The market share is calculated as an average for the years 2017 and 2018.



Counterfactual

45. The counterfactual is the result of the assessment of competitive effects of a merger by comparing the state of competition post-merger with that pre-merger. The proposed transaction involved the acquisition of a controlling interest in Medine Distillery by NGI. Absent the merger, the main shareholder of Medine Distillery is EUDCOS. And EUDCOS has no shareholding in Grays Distilling. The Executive Director does mention that EUDCOS has interest in International Distillers and New Goodwill Company. NGI, on the other hand has a higher level of control in both International Distillers and New Goodwill Company.

46. The Executive Director is of the view that NGI is in a position to control the policy of New Goodwill Company and despite the fact that EUDCOS has shares in New Goodwill Company, its control over New Goodwill company is lower than that of New Goodwill Investment.

47. With regard to International Distillers, both New Goodwill and EUDCOS own 50% of shares. Based on information gathered, the Executive Director found that NGI has a higher level of control over the Policies and activities of International distillers because [redacted] [confidential to NGI].

48. The Executive Director further noted that, following the transaction, NGI's control over Medine Distillery will increase from material influence to controlling interest and

it will hence be in a position to control the policy of Medine Distillery, which it previous was not able to do.

Theory of harm and effects

49. The competitive effects of a merger will be an analysis of the effects of the merger in the relevant market(s). The assessment of the effects of a merger on competition post-merger will depend on whether it is a horizontal, vertical or conglomerate merger. According to the Guidelines on Mergers[20], different categories of mergers give raise to different types of effects and they are as follows: -

    (a) horizontal mergers are likely to give rise to unilateral effects (the merger creates a supplier with sufficient monopoly power that it faces weaker competitive constraints than before the merger);

    (b) horizontal and vertical mergers are likely to give rise to coordinated effects (the merger results in a market in which it is more likely that suppliers co-operate, explicitly or implicitly, to raise prices) and;

    (c) vertical and conglomerate mergers may lead to foreclosure (the merger creates a supplier whose market position is such that it has a stronger ability or incentive to restrict, prevent or distort competition, for example by giving it the ability to control inputs to its competitors' production).

i. Horizontal concerns

50. The Executive Director first analysed the effects that the merger has from a horizontal perspective since the transaction is bring together two competitors in the production of extra neutral alcohol (Medine Distillery and Grays Distilling). After his assessment[21], the Executive Director was of the view that the transaction will substantially lessen competition by substantially lessening the incentives for Medine Distillery and Grays Distilling to compete. Since these two players are the suppliers of extra neutral alcohol which are used as an input to produce bottled rum, any loss of competition at the upstream level is likely to impact the downstream level as well.

51. The assessment of the unilateral effects resulting from bringing Medine Distillery and Grays Distilling together shows that through the transaction, NGI will be in a position to control the policy of Medine Distillery while materially influencing the policy of Grays Distilling. The consequence of two competitors being under common control is thus likely to increase the market power of NGI.

[20] Paragraph 3.27 of the Competition Commission Guidelines on mergers
[21] Paragraph 6.9 to 6.30 of the Final Report

52. The Executive Director also found that the market for extra neutral alcohol is a highly concentrated market and its HHI prior to the transaction is 5900 and an HHI above 2000-2500 is considered to be the characteristic of a concentrated market. The Executive Director further noted that by virtue of its high market share, Medine Distillery alone is likely to have a market power prior to the transaction. Following the transaction, it will be under the effective control of NGI, which also have a material influence over the main competitor of Medine Distiller (i.e., Grays Distilling) and this is likely to increase the market power of the interconnected body Medine Distillery/NGI.

53. Further assessment[22] of the Executive Director shows that the increased market power of NGI creates an incentive for it to increase its prices post-merger.

54. The Executive Director opined that, since the market for the supply of extra neutral alcohol cannot be dissociated with that of supply of bottled rum, an increase of extra neutral alcohol on the part of the interconnected enterprise of New Goodwill Investment/Medine might also be profitable to New Goodwill Company and International Distillers in view of the vertical link that these two latter players share with NGI.

55. The Executive Director also found that despite of the fact that Omnicane Bioethanol Distillery is a potential competitor to Medine Distillery and Grays Distilling, the competitive constraint posed on these two is substantially reduced by the fact that International distillers and New Goodwill Company, among the main players in the bottled rum market, procure extra neutral alcohol from both Medine Distillery and Grays Distilling and are under the control of NGI which has control over Medine Distillery and Grays Distilling.

56. The Executive Director also found that the fact that extra neutral alcohol uses molasses as a raw material and that the production of molasses is decreasing[23] and hence no surplus of molasses on the market, this renders entry of new players in the market difficult. The other barriers identified by the Executive Director are legal barriers such as Environment Impact Assessment license, capital requirements and the unwillingness of customers to switch to new supplier.

57. The Executive Director is also of the view that the added control of NGI on Medine Distillery and its existing material influence on Grays Distilling will substantially increase the likelihood and effectiveness of coordination[24].

[22] Paragraphs 6.40-6.51 of the Final Report
[23] Due to a decrease in cultivation of sugarcane in Mauritius
[24] For all the reasons found at paragraphs 6.63 -6.73 of the Final Report

58. The Executive Director also highlighted in his report (at paragraphs 6.75 to 6.79 of the Final Report) that with the significant common shareholding that exists amongst the three main players in the downstream market for bottled rum, industry-wide coordination is more likely to occur, and collusive equilibrium is likely to be more achievable and sustainable.

ii. Vertical concerns

59. Since the transaction also results in vertical links, the Executive Director has also assessed the likelihood that the transaction will result in vertical concerns.

60. With respect to vertical mergers, the Executive Director considered two potential theories of harm: (i) input foreclosure (e.g., where the merged entity restricts downstream rivals' access to an input product to such a degree that competition is harmed), and (ii) customer foreclosure (e.g., where the merged entity raises their non-integrated upstream rivals' costs by restricting their access to important customers to such a degree that competition is harmed).

61. With respect to input foreclosure, following his assessment[25] the Executive Director was of the view that the transaction will increase the ability of Medine Distillery and Grays Distilling to engage in vertical foreclosure. However, they would be constrained to some extent by Omnicane Bioethanol Distillery. He further opined that the vertical effects are unlikely to be substantial when considered in isolation. However, when these vertical effects are combined with the other concerns identified in the Final Report, these effects are substantial.

62. With respect to customer foreclosure, the Executive Director concluded that NGI will have both the incentive and ability to foreclose Grays Distilling - Grays Distilling being the main competitor to Medine Distillery and Grays Inc being the main competitor to International Distillers and New Goodwill Company.

Assessment of entry constraints

63. The Executive Director also found that there are significant barriers to entry at both upstream and downstream level. At the upstream level, the common shareholding that exist amongst the players of the market is such that, bottlers procure their extra neutral alcohol from the distillers to whom they are related[26]. At the downstream level, barriers to entry in the market seems very high as the sales of alcoholic product is highly regulated and promotion is not allowed.

[25] Paragraphs 6.82-6.93 of the Final Report
[26] Paragraph 6.118 of the Final Report

64. An assessment of other considerations such as the countervailing buyer power shows that buyers in the downstream market do not have much buyer power and it is unlikely that they can countervail any price increase by the three main suppliers of bottled rums.

65. S.50(2) of the Act stipulates that when assessing whether a merger situation is likely to result in a substantial lessening of competition, the Commission shall have regard to the desirability of maintaining and encouraging competition and the benefits to be gained in respect of the price, quantity, variety and quality of goods and services.

66. S.50 (3) of the Act provides that where the Commission determines that the merger situation will adversely affect competition it shall consider any offsetting public benefits before deciding on any appropriate remedial action.

67. S.50 (4) provides for a list benefits to be considered by the Commission.

68. The Executive Director has accordingly assessed any offsetting benefits that may be derived from the transaction and found that despite of the two potential benefits that he has identified[27], he is of the view that in the present matter there are no off-setting public benefits present which have to be factored in before deciding on the appropriate remedy. It has been highlighted that neither NGI nor Medine Distillery have put forward any offsetting befits which will result from the transaction.

The recommended directions and remedies

69. In addition to s. 61 of the Act, the Competition Commission Guidelines on Remedies and Penalties ('Guidelines 6') provide the framework for determination of appropriate remedy. Paragraph 3.3 of the Guidelines 6 provides the Competition Commission should select a remedy which is effective, timely and the cost of implementing the remedy should be proportional to the expected benefits of the remedy.

70. In line with the provisions of the Act and the Guidelines, the Executive Director is recommending the following directions: -

    (a) That New Goodwill Investment be directed to divest of all its shares and associated rights, in Grays Distilling within a maximum period of 6 months starting from the effective date, which is either the date of the completion of the transaction or the issue of the Commission's decision, whichever is the later.

    (b) That New Goodwill Investment be given a maximum period of 2 months from the effective date to divest the shares to the existing shareholder of Grays Distilling or

[27] Paragraph 6.130 of the Final Report

within a maximum period of 4 months from the effective date to another purchaser.

(c) That in the event that the purchaser of divested shares is not an existing shareholder of Grays Distilling, the approval of the Commission must be sought, and the Commission must be notified of the Purchaser at least 1 month before lapse of the divestment deadline.

(d) That New Goodwill Investment be directed to report to the Competition Commission on a monthly basis on the status of the divestment and actions it is taking to ensure the divestment.

(e) That New Goodwill Investment be directed not to influence the policy of New Goodwill Company to change its sourcing policy with respect to extra neutral alcohol and not to influence the policy of New Goodwill Company such that it ceases procuring extra neutral alcohol from Grays Distilling as a result of the transaction.

(f) That For a period of 5 years and on a yearly basis, New Goodwill Investment be directed to submit a report to the Commission detailing the amount of extra neutral alcohol procured by New Goodwill Company from various sources.

(g) That should New Goodwill Investment desist from completion of the transaction, the above directions will not apply.

V THE STAND OF THE PARTIES

i. New Goodwill Investment Co. Ltd

71. The written submissions on behalf of NGI may be summed up as follows: -

A. The proposed transaction would not substantially alter the existing market structure. It is further submitted that the assessment of the merger situation ought to be based on a 'comparative analysis' and not an 'absolute analysis'. According to NGI, the Executive Director has been inconsistent in his conclusions with respect to the issue of control and it also submits that the conclusions reached by the Executive Director with regard to the substantial lessening of competition is confusing and not credible.

B. Secondly, it is submitted that the Executive Director was wrong to have discarded the competitive constraint posed by Omnicane Bioethanol Distillery in his determination of the market definition and the assessment of theories of harm within the upstream market.

C. Thirdly, it is submitted that the investigation of the Executive Director is not compliant with the Guidelines of the Competition Commission itself as the latter has failed to apply the 'Hypothetical Monopolist Test' and has failed to include the extra neutral alcohol produced by Omnicane Bioethanol Distillery in the definition of upstream market. NGI also adds that the Executive Director has failed to give due consideration to the possibility of importing extra neutral alcohol.

D. Fourthly, NGI submitted that the 'substantial lessening of competition' test should be at the core of any investigation under section 47 of the Competition Act in so far as the key focus in investigations of such a nature should have been whether there would be significant changes in the markets and levels of rivalry pursuant to the proposed transaction.

E. NGI also submitted that the Executive Director was wrong to factor out the legal provisions with respect to the supply or acquisition of molasses in his analysis.

F. Finally, NGI submitted that the recommendations submitted by the Executive Director are, by their nature, disproportionate, unreasonable, discriminatory, restrictive and in breach of the Competition Act.

Medine Distillery Co. Ltd

72. At the hearing, counsel for Medine Distillery, Mr. De Speville, S.C. stated that he has had cognizance of the written submissions of NGI and that he concurred with the stand of NGI. He added that with respect to the proposed recommendations of the Executive Director, his submission was that divesting is a very drastic measure which touches propriety rights and should be avoided if possible.

73. As regards recommendation (e) of the Executive Director where he recommended that that NGI be directed not to influence the policy of New Goodwill Company to change its sourcing policy with respect to extra neutral alcohol, Mr. De Speville, S.C. submitted that this goes against competition laws and should not stand.

74. Mr. De Speville, SC further submitted that, in the event the Commission finds that the proposed transaction amounts to a merger situation which is likely to result in a substantial lessening of Competition, the Commission may consider a direction in the form of a monitoring mechanism. He proposed the Commission to monitor NGI for a period of around five years by asking the NGI to furnish reports so as to satisfy the Commission that the acquisition of NGI in Medine Distillery and the fact of not disinvesting in Grays Distilling will not raise the market power of NGI in the future and will not lead to unilateral effects.

Grays Distilling Ltd

75. The Commission takes note of the fact that, at the stage of investigation, Grays Distilling Ltd had submitted in its comments on the Statement of Issues Report that NGI does not have material influence on Grays Distilling[28].

76. At the hearing, the representative of Grays Distilling, Mr. Alexis Harel submitted that they have not made any representations as they concur with the findings of the Executive Director as they stand right now. He added that he is of the view that since NGI is taking a majority stake in Medine Distillery and that by so doing it will be in the driving seat, it makes business sense that NGI divest from their direct competitor, that is, Grays Distilling.

VI DETERMINATION

77. The Commission has considered the Final Report, the comments of NGI and of Grays Distilling to the Statement of Issues Report and Provisional Findings Report, the skeleton arguments of NGI submitted on 14 January 2021, the submissions of the Executive Director and that of the parties at the hearing of 27.01.2021.

Merger situation

78. The first question to be addressed by the Commission is whether the proposed transaction is a merger situation under s.47 of the Act.

79. The Commission notes that it is not being disputed that the different entities concerned, i.e., Medine Distillery, Grays Distilling, New Goodwill Company and International Distillers are enterprises under s.2 of the Act.

80. With respect to the issue of common ownership, the Commission is of the view that even without the proposed transaction, NGI already had a common ownership in 2 or more enterprises (the enterprises being Medine Distillery, Grays Distilling, New Goodwill Company and International Distillers). What the proposed transaction in fact will be bringing, is an increase in ownership of NGI in Medine Distillery, that is, from a shareholding of 33.33% to 66.66%. Therefore, there will be a material change in ownership. According to paragraph 3.4 of the Merger Guidelines, 'a simple change of ownership, which does not bring together related products under common control, will normally be considered to have no competitive effects and would therefore be allowed'. However, paragraph 3.4 of the Merger Guidelines makes it clear that a change in ownership must be assessed along with whether the transaction is bringing together related products under common control. And this leads to the next question as to whether the proposed transaction is also bringing under common control 2 or more enterprises as provided at s.47(1) of the Act.

[28] Paragraph 4.33 of the Final Report

81. The Commission notes that, it is the contention of NGI that the Executive Director has been inconsistent in his conclusions in respect of the issue of control[29]. NGI contended that the Executive Director concludes that NGI exercises control in Grays Distilling with its shareholding of 33.33 % but he does not conclude that NGI exercises control in New Goodwill Company or Medine Distillery where NGI holds 33.33% of shares in each company respectively. A perusal of the Final Report, however, indicates that the Executive Director has been consistent in his treatment of control within the different enterprises. At paragraph 4.33 of his Final Report, the Executive Director found that "*with a shareholding of 33.3%, NGI is likely to have material influence on Grays Distilling*". At paragraph 4.13 of his Final Report, it is stated that "with 33.33% ownership in Medine Distillery, NGI was likely to have had material influence over Medine Distillery...". For the avoidance of doubt, it is worth recalling that 'material influence' is also a level of control as per s.47(3)(a) of the Act. According to this section, "*a person may be treated as bringing an enterprise under his control where he becomes able to control of materially influence the policy of the enterprise...*".

82. It is also clear from s.47(3)(b) of the Act, that a change in the level of control from 'material influence' to 'having controlling interest' amounts to bringing an enterprise under control. This begs the next question as to whether the increase in shareholding of 33.33 % to 66.66%, amounts to a change in the level of control.

Material influence

83. The Commission notes that 'material influence' has not been defined by the Act nor is there any case precedent in Mauritius to enlighten the Commission on what may amount to 'material influence'. The Merger Guidelines[30] provide that in determining whether material influence exists, the Competition Commission will consider all the relevant circumstances and not only the legal effect of any instrument, deed, transfer, assignment, or other act.

84. To find out what may amount to 'material influence', the Executive Director has relied on case precedent from UK which, albeit not binding, is however persuasive. The Competition Appeal Tribunal upholding the findings of the UK Competition Commission found that a shareholding of 17.9 % amounts to material influence since based on past voting patterns, British Sky Broadcasting Group PLC would be able to block special resolutions by ITV's management[31]. Furthermore, if the determination of material influence is based on the ability to block special resolutions, a shareholding of at least 25 % would suffice to confer material influence on the holder based on the fact that the Companies Act 2001 provides that the voting of special resolution requires a majority of 75 %.[32] Consequently a shareholding of at least 25 % may block special resolutions.

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[29] P.2 of NGI's skeleton Arguments, paragraph A(ii)(a)- (c)
[30] Paragraph 2.8 Merger Guidelines
[31] Acquisition by British Sky Broadcasting Group Plc of 17.9 % of the shares in ITV Plc
[32] Paragraph 3.44 of the Final Report

85. It is clear that there is no clear-cut answer of what a 'material influence' is and th determination is to be done on a case-to-case basis. The question to be asked therefor is, whether NGI has a material influence on Medine Distillery with a shareholding of 33.3: %. With 33.33 % shareholding in Medine Distillery, NGI is able to exercise 33.33 % voting rights, appoint directors on the board of directors of Medine Distillery and with the number of directors it can appoint on the board, NGI is able to influence decisions which are essential for the strategic commercial behaviour of the enterprise. For the reasons herein provided together with the fact that EUDCOS is the majority shareholder in Medine Distillery (with 66.66 % shareholding) , the Commission is therefore satisfied with the conclusion of the Executive Director that NGI holds a material influence in Medine Distillery.

86. The Commission also notes that Grays Distilling, had in its comments on the Statement of Issues Report, submitted that NGI has no material influence over Grays Distilling. As rightly pointed out by the Executive Director, even though material influence has never been exercised in practice, the test in assessing material influence resides in the ability to exercise the material influence rather than the exercise of same.[33]

87. The Commission is further satisfied that with a shareholding of 33.33 % in New Goodwill Company and Grays Distilling respectively and for the reasons provided at paragraph 4.23 and 4.33 of the Final Report, NGI has control in both enterprises.

88. With respective to International Distillers where NGI holds 50 % of shareholding and for the reasons provided at paragraphs 4.28 -4.30 of the Final Report, the Commission is also satisfied that NGI has control over the former.

Controlling interest

89. As already indicated above, the transaction involves an increase in shareholding from 33.33 % to 66.66% in Medine Distillery. The next question is: what type of control does a 66.66 % ownership confer on an enterprise? The Merger Guidelines provide that controlling interest is generally deemed to exist where a person holds ownership of at least 30% or more of the voting rights but such percentage of shareholding is only indicative and could be lower. Other forms of voting rights will also be taken into account in assessing controlling interest[34]. An assessment of the rights that EUDCOS enjoys within Medine Distillery with its shareholding of 66.66 % is a clear indication that it has a controlling interest in Medine Distillery[35]. It is therefore obvious that following the acquisition from 33.33 % to 66.66%, NGI will have an increase in level of control from

[33] Paragraph 2.8 Merger Guidelines and paragraph 4.33 of the Final Report.
[34] Paragraph 2.10 & 2.11 Merger Guidelines
[35] Paragraph 4.10- 4.12 of the Final Report

material influence to controlling interest in Medine Distillery and this not a mere swapping of shareholding as contended by learned counsel for NGI.

90. Based on above, the Commission is satisfied that through the proposed transaction NGI will be bringing Medine Distillery, International Distillers, New Goodwill Company and Grays Distilling under common ownership and control. And, since all the 5 mentioned companies are incorporated in Mauritius and carry their activities in Mauritius, the transaction is likely to amount to a merger situation as per the Act.

Is the merger situation reviewable by the Commission?

91. For a merger situation to be reviewable by the Commission, it must satisfy the 30% market share threshold as stipulated at s.48 of the Act. And in order to do so, the relevant market and market shares need to be defined. The Executive Director has found two relevant markets, the first relevant market being the downstream market the production and sales of bottled rum at the wholesale level. The second relevant market is the upstream market, which is the market for the supply of extra neutral alcohol (made from molasses as raw material) and the players being three distillers namely Medine Distillery, Grays Distilling and Omnicane Bioethanol Distillery.

92. NGI has contended that the Executive Director was wrong to have discarded the competitive constraint posed by Omnicane Bioethanol Distillery and that the Executive Director has not reproduced the table with regard to the production and amount of local consumption as well as the amount of exported extra neutral alcohol which Mr. Jacques Li Wan Po, had submitted as per File Note of meeting NGCL 31.05.19.

93. The Commission finds that the Executive Director has indeed not reproduced the said table in his Final Report. The Executive Director has however produced a table[36] in his Final Report listing the market shares of Medine Distillery, Grays Distilling and Omnicane Bioethanol Distillery for the years 2016-2018 and these market shares have been calculated based on figures that had been submitted by the three mentioned distillers. The Commission is of the view that the Executive Director is right to have used figures provided by each distiller with respect to their own production of extra neutral alcohol. The Commission is therefore of the view that Mr. Jacques Li Wan Po, who represented New Goodwill Company Ltd at the meeting of 31.05.2019 could not provide accurate figures with respect to the production of extra neutral alcohol by each distiller. Assuming that Mr. Li Wan Po is aware of the amount of production by Medine Distillery and Grays Distilling by virtue of NGI's shareholding in the latter, the Commission is of the view that Mr. Li Wan Po could still not accurately provide information with respect to the production by Omnicane Bioethanol Distillery.

[36] P.68 of the Final Report

94. The Commission is further of the view that the conclusions of the Executive Director with respect of Omnicane Bioethanol Distillery to the effect that: -

- Omnicane Bioethanol Distillery is one of the three players in the upstream relevant market along with Medine Distillery and Grays Distilling;
- the extra neutral alcohol produced by all three distillers are substitutable from both demand and supply perspectives;
- Omincane Bioethanol Distillery may act as a constraint to input foreclosure;
- Omnicane Biothanol is a viable competitor to Medine Distillery and Grays Distilling and;
- any new entrant which is refused supply by Medine Distillery and Grays Distilling can try to obtain such supply from Omnicane Bioethanol Distillery,

do not in any way prove that the Executive Director was wrong to have factored out Omnicane Bioethanol Distillery when calculating the market share distribution of each distillery. The Commission is of the view that the conclusions of the Executive Director show that Omnicane Bioethanol Distillery is in fact a potential competitor to Medine Distillery and Grays Distilling and not an actual competitor. Omnicane Bioethanol Distillery is not an actual competitor mainly because, as rightly concluded by the Executive Director, the extent to which Omnicane Bioethanol Distillery can be a competitive constraint on Medine Distillery and Grays Distilling is substantially reduced due to the fact that the main bottlers in the downstream market procure extra neutral alcohol from the distiller they are structurally linked to[37] and this excludes Omnicane Bioethanol Distillery, the more so as most of the output from Omnicane Bioethanol Distillery is exported.

95. The Commission also notes that, in his calculation of the market share threshold in the relevant upstream market, the Executive Director has rightly not only factored out the production of extra neutral alcohol which are exported by Omnicane Bioethanol Distillery, but he has also factored out the amount of alcohol produced by Medine Distillery and Grays Distilling which are exported and not sold on the local market.

96. The Commission also finds that, contrary to the contention of NGI, the Executive Director has rightly applied the hypothetical Monopolist Test as per its Guidelines on Market Definition as depicted in his assessment of market definition at paragraphs 5.28, 5.57, 5.73 and 5.85, respectively.

97. Yet another contention of NGI is that the Executive Director has failed to give due consideration to the possibility of importing extra neutral alcohol. The Commission however finds that the Executive Director has addressed his mind to this possibility at paragraph 5.85 of his Final Report and found that importation of extra neutral alcohol was a less viable alternative.

[37] Paragraph 6.56 of the Final Report

98. In view of the above and for all the reasons provided in his Final Report, the Commission is satisfied that Executive Director was right to factor out extra neutral alcohol produced by Omnicane Bioethanol Distillery from the calculation of market share in the upstream market thus rightly identifying Medine Distillery and Grays Distilling as the only two market players in the production of extra neutral alcohol designated for local use. Accordingly, the Commission is satisfied that market share threshold of 30 % has been met in the upstream market thus rendering the merger situation reviewable under the Act. The Commission is further satisfied that, for all the reasons which have been provided in the Final Report in respect to the downstream market, the market threshold of 30 % has been met in the downstream market as well.

Does the transaction lead to a substantial lessening of competition?

99. The contention of NGI with respect to the issue of substantial lessening of competition is to the effect that the Executive Director did not demonstrate how the proposed merger would result in a substantial lessening of competition as the process of rivalry does not change post transaction. The contention of NGI rests on the supposition that there is no loss of rivalry post transaction. The Commission however notes that the effect of the increase of level of control by NGI within Medine Distillery from material influence to controlling interest coupled with the fact that NGI already has a material influence in Medine Distillery's competitor, that is, in Grays Distilling, has been thoroughly assessed by the Executive Director to show how the transaction is likely to result in a loss of rivalry. For all the reasons provided by the Executive Director in his Final Report and summarized at paragraphs 40-67 above, the Commission is satisfied that the merger situation is likely to result in a substantial lessening of Competition.

100. NGI has also contended that the theories of harm posited by the Executive Director to demonstrate that there will be a substantial lessening of competition have only been theoretical, with no concrete evidence nor reasonable justification as to why the process of rivalry would change post the proposed transaction. The Commission wishes to highlight that the test to be applied by the Commission with respect to the substantial lessening of competition is whether the merger situation has resulted in or is likely to result (emphasis is ours) in substantial lessening of competition. The proposed transaction is yet to materialize and what the Executive Director has shown are the likely effects of the proposed transaction on competition. The Commission appreciates that the Executive Director cannot at this stage provide concrete evidence with regard to the anti-competitive effects of the transaction within the market. Having said that, this in no way means that the Executive Director ought to speculate as to the anti-competitive effects of the proposed transaction. The Commission finds that the Executive Director has indeed provided solid and reasonable justification in his Final Report that the merger situation is likely to result in a substantial lessening of competition. For all the reasons provided by the Executive Director in Chapter 6 of his Final Report, the Commission is satisfied with the conclusion reached with respect to the counterfactual, the theories of harms and

effect and the assessment of entry constraints. The Commission accordingly finds that the proposed transaction is likely to result in a substantial lessening of competition.

The Supply and Acquisition of molasses

101. Another contention of NGI is that the Executive Director was wrong to factor out the supply or acquisition of molasses in his analysis. NGI contends that molasses should not have been factored out because molasses which is a raw material from which distillers produce extra neutral alcohol, its supply in Mauritius is subject to a high degree of regulation. The Commission takes note of the fact the Government controls the price of molasses to be sold to distillers, controls the production of all goods where ethanol is being used as an ingredient, controls the revenue to planters from sale of molasses, decides on the supply and acquisition of molasses to distillers and even controls the removal and transportation of molasses within Mauritius. The Commission further takes note of the fact that there is prohibition on the advertisement and sponsorship of alcohol drinks and restriction on the sale and consumption thereof in public places.

102. The Commission also finds that the issue of regulation of the supply of molasses had already been raised by NGI at the stage of investigation in their response to the Provisional Findings Report. The Commission further notes that the Executive Director has given due consideration to NGI's comments and has responded to their comments at paragraphs 7.83 to 7.94 of his Final Report. The Commission is of the view that NGI has failed to demonstrate how the regulation of the supply of molasses have an incidence on the Executive Director's finding of the merger situation or the likely substantial lessening of competition in both the downstream and upstream market. The mere fact that the price of molasses is regulated does not have an incidence on the price at which distillers choose to sell their extra neutral alcohol to bottlers. Distillers still have the choice to sell their extra neutral alcohol at any price and this is one of the competition concerns that has been raised in the theory of harm as a consequence of the proposed transaction.

103. The Commission is also of the view that albeit the fact that molasses is a raw material from which extra neutral alcohol is produced, the assessment of the focal product at the upstream market is on the supply of extra neutral alcohol while the assessment focal product at the downstream is on the production and sale of bottled rum in Mauritius and not the supply/acquisition of molasses.

104. The Commission further finds that the regulation of the acquisition/supply of molasses does not in any way have any incidence on competition that exists in the two identified markets. Competitors within each relevant market may very well compete with each other.

105. The Commission also finds that, as rightly pointed out by the Executive Director, the ban on advertisement for consumption and sale of alcoholic products does not curtail competition amongst competitors. This ban on advertisement has been factored in by the

Executive Director when assessing any barrier to entry in the downstream market. This goes towards showing that relevant legislations have been factored in by the Executive Director in his assessment wherever relevant. Other examples where due consideration has been given to relevant legislations are found at paragraph 2.41 to 2.45 of the Final Report.

106. The Commission is of the view that the Executive Director did not factor in the supply/acquisition of molasses in his analysis simply because same was not warranted for the reasons provided above.

The recommended directions and remedies

107. The Commission notes that the merger has not yet materialized and the present matter is a case of prospective merger.

108. The remedies in merger control are provided for at s. 61 of the Act. The Act provides that, upon a finding that an enterprise is party to a merger situation that is likely to result in a substantial lessening of competition, the Commission is empowered to impose the following remedies: -

(i) impose such directions to remedy, mitigate or prevent, the substantial lessening of competition and any adverse effects that are likely to result thereof; and/or

(ii) In case of a prospective merger, impose a direction requiring an enterprise to desist from implementing or completing the merger or to divest such assets as are specified in the direction within such period as may be specified in the direction before the merger can be completed or implemented or to adopt/desist from such conduct, including conduct in relation to prices, as specified in the direction as a condition of proceeding with the merger.

109. As per the Guidelines 6, the Commission is minded to adopt a remedy which is effective, timely and where the cost of implanting the remedy is proportional to the expected benefits of the remedy.

110. As pointed out in the Final Report, the effectiveness of a remedy '*will be judged according to a remedy's likely effect on the state of competition in the relevant market, and the adverse effects resulting from any weakness of competition*'[38]. The Guidelines 6 also provide that '*for mergers, where a substantial lessening of competition arises from a structural change in the relevant market, the Competition Commission will always consider a structural solution as a possible remedy.*'[39]

[38] Paragraph 3.5 of Competition Commission Guidelines 6
[39] Paragraph 3.10 of Competition Commission Guidelines 6

111. With respect to timeliness, the Competition Commission will prefer remedies that act swiftly to deal with problems it has identified, over those that operate only after a delay. In case of conflict between timeliness and effectiveness, the Competition Commission may need to balance effectiveness against timeliness.[40]

112. Before imposing a remedy, the Competition Commission will also consider whether the cost of imposing the remedy is proportional to the benefits to be derived from that remedy. It should not be assumed that the lowest-cost remedy will be chosen. The Competition Commission's primary focus will be the effectiveness (and timeliness) of the remedy or remedies required.

113. It is upon application of the above principles that this Commission will proceed to determine the appropriate remedy that is called for in the circumstances.

114. Considering the fact that the likely substantial lessening of competition is based on a proposed structural change, a structural solution is always to be considered as a possible remedy[41]. The Executive Director has accordingly considered whether a divestment of the shares of NGI in Grays Distilling will restore the market structure and state of competition close to the state it was absent the transaction. The Executive Director has accordingly undergone an assessment of same[42] and relying on the European Commission's Notice on remedies[43] and merger cases[44] precedent at the level of the European Commission, found that the divestment of shares of NGI from Grays Distilling to be a reasonable remedy to effectively mitigate any substantial lessening of competition which is likely to result from the proposed transaction. The Commission concurs with the above view and is of the considered opinion that since the likelihood of harm to competition arises from the market's structural conditions that would result with the proposed merger, divestiture is the appropriate remedy in the present case.

115. The Executive Director has also taken into account the Constitution of Grays Distilling regarding pre-emptive rights on the transfer of existing shares of the company to decide on the time frame within which and the conditions upon which the divestment shall be imposed.[45]

116. At the hearing, NGI submitted that the remedy of divestment is a very strong measure which affects property rights. Learned Counsel for NGI, Mr. King Fat also submitted that as per the recommendation of the Executive Director, NGI is being asked to sell its shares

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[40] Paragraph 3.14 of the Competition Commission Guidelines 6
[41] Paragraph 3.10 of Competition Commission Guidelines 6
[42] Paragraphs 8.18 -8.28 of the Final Report
[43] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:267:0001:0027:EN:PDF Accessed 12 August 2019
44 Case COMP/M.6471 – Outokumpu/INOXUM and Commission Decision of 3 December 1997 Case No IV/M.942 - Veba/Degussa
[45] Paragraphs 8.29 – 8.44 of the Final Report

in Grays Distilling to an existing shareholder and by so asking, the Executive Director is recommending a 100 % shareholding by Terra Brands. He therefore questioned why substantial lessening of competition would not arise in that case.

117. Learned Counsel for NGI further submitted that had the Executive Director factored in the legislations governing the supply, production, and movement of molasses, he could have taken into account paragraphs 4.30 and 4.31 respectively, under 'Recommendations to Government' of the Guidelines 6, and he could have had recourse to the Government to request for a review of the legislations[46] in question to address his qualm in respect of the substantial lessening of Competition instead of coming up with such a drastic measure as divestment. Mr. King Fat further submitted that the Executive Director failed to consider this approach as he has simply discarded the legal provisions with respect to production and movement of molasses in his investigation.

118. Mr. King fat further submitted that recommendation (e)[47] cannot stand as by its very nature, it does not seek to promote free competition and also as extra neutral alcohol may also be procured via importation.

119. Learned Counsel for Medine Distillery, Mr. De Speville S.C. concurred with counsel for NGI that divestment is a drastic measure as it touches on propriety rights. He also concurred with Mr. King Fat that recommendation (e) should not stand as it is anti-competitive.

120. Mr. De Speville, S.C. further proposed, as an alternative to divestment, a monitoring mechanism for a period of approximately 5 years whereby NGI be required to furnish reports to the Commission to satisfy the Commission that the market power of NGI is not being raised and that the proposed merger is not causing any unilateral effects.

121. Grays Distilling, which was represented by its Managing Director, Mr. Alexis Harel submitted that Grays Distilling concurs with the findings of the Executive Director. With regards to the proposed remedy of divestment, Mr. Harel submitted that since NGI will be taking a majority stake in Medine Distillery, it will find itself in the driving seat, so much so that it would make business sense that NGI divest from Medine Distillery's direct competitor which is Grays Distilling.

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[46] The legislations being the provisions of the law in respect of supply/acquisition and movement of molasses

[47] (e) *"New Goodwill Investment be directed not to influence the policy of New Goodwill Company to change its sourcing policy with respect to extra neutral alcohol and not to influence the policy of New Goodwill Company such that it ceases procuring extra neutral alcohol from Grays Distilling as a result of the transaction."*

122. Mr. King Fat however drew the attention of the Commissioners to the fact that Grays Distilling had never raised such an issue at the investigation stage. Be that as it may, the argument raised does not amount to fresh evidence being introduced at the hearing.

123. The Commission has given due regard to the findings and proposal of the Executive Director and to the submission of parties with respect to the proposed remedies. It is to be noted that, at the hearing, the Commissioners have given the opportunity to NGI to propose 'other suggestions' as an alternative to divestment, in the form of additional written submissions, which the Commission could consider in the event that it makes a finding that the proposed transaction amounts to a merger situation which is likely to result in a substantial lessening of competition. The Commission wishes to point out that on 05 February 2021, NGI had indeed provided additional submissions to the Commission. However, the Commission is of the view that NGI's additional submissions of 05 February 2021 fell short of coming up with any proposal that would constitute a satisfactory remedy other than divestment that would adequately take care of the competition concern raised in the present matter.

124. With respect to the submission of Mr. King Fat that the Executive Director ought to have taken into account paragraphs 4.30 and 4.31 of the Guidelines 6 in order to request for a review of the legislations[48] in question to address his qualm in respect of the substantial lessening of competition, the Commission finds that these two provisions of Guidelines 6 do not find their application in the present case. This is because these two provisions concern the Government policies or regulations that contribute to competition problems. And in the present case, the Executive Director has, no where in his investigation indicated that the legislative provisions with respect to the supply/acquisition and movement of molasses contribute to any competition problems. The commission also is of the considered view that such is not the case.

125. The Commission has given due consideration to the contention of NGI and Medine Distillery that divestment is a strong measure that touches on propriety rights and is therefore to be avoided. True it is, the Guidelines 6 does make mention that forced divestment represents a considerable intervention in property rights and the commission will not require divestment in merger cases like the present one, unless it is satisfied that no other equally effective remedy exists, and that such intervention is not disproportionate to the expected benefits[49]. This provision, however, must not be construed in isolation.

126. The Commission must point out that Guidelines 6 also provides that 'for mergers, where a substantial lessening of competition arises from a structural change in the relevant market, the Competition Commission will always consider a structural solution as a possible remedy.'

[48] The legislations being the provisions of the law in respect of supply/acquisition and movement of molasses.
[49] Paragraph 4.4 of the Competition Commission Guidelines 6

127. In the present case, substantial lessening of competition is likely to arise from the structural change that will occur with the proposed increase in shareholding of NGI in Medine Distillery from 33.3% to 66.666%.

128. The Commission has considered the suggestion of Medine Distillery to monitor NGI, as an alternative remedy to divestment. The Commission is of the view however that a motoring mechanism alone does not adequately address the competition concerns raised with this merger situation. A monitoring mechanism simpliciter would require the Commission to keep an eye on each and every decision being taken by the board of directors of NGI, Medine Distillery and Grays Distillery and on the day to day running of these businesses; and this is far from being a practical solution.

129. Additionally, the Commission is also of the considered view that a monitoring mechanism will not allow the detection of any coordination amongst the players of the two identified relevant markets, coordination being one of the competition concerns raised by the Executive Director and accepted by the Commission.

130. The Commission is therefore satisfied that there is no other effective remedy to address the competition concern raised in this case. The Commission is further satisfied that a divestment as proposed by the Executive Director does provide for an effective remedy in the present circumstances.

131. The Commission is also satisfied that a divestment is not disproportionate in so far as it is not a forced divestment. In any event NGI still has the choice of not divesting in Grays Distilling; in which case admittedly it will have to forgo the proposed transaction.

132. The Commission further finds that the divestment timeline of 2 months proposed by the Executive Director, for divestment to the existing shareholder of Grays Distilling, is reasonable as due regard has been had of the governing provision of the constitution of Grays Distilling regarding the rights of pre-emption of the existing shareholder within it. The Commission also finds that it is reasonable to give a maximum period of 6 months for NGI to divest all its shares and associated rights in Grays Distilling to a purchaser other than the shareholder in Grays Distilling in the event the latter opts not to avail itself of its pre-emptive rights within the set timeline.

133. The Commission further agrees with the recommendation of the Executive Director that his prior approval must be sought and that he must be notified one month in advance before the lapse of the divestment deadline in the event that the shares are being sold to a non-existing shareholder of Grays Distilling. This is a requirement in order to ensure that acquisition of the divested shares by a third party does not give rise to another merger situation under the Act.

134. The Commission further agrees that for monitoring purposes by the Executive Director, NGI be directed to report to the Competition Commission on a monthly basis on the status of the divestment and actions it is taking so as to ensure the divestment.

135. With regard to the recommendation that NGI be directed not to influence the policy of New Goodwill Company to change its sourcing policy with respect to extra neutral alcohol and not to influence the policy of New Goodwill Company such that it ceases procuring neutral alcohol from Grays Distilling as a result of the transaction, the Commission is of the considered view that there is no need for such a directive as NGI is already required by law not to engage in any form of anti-competitive conduct and also as the concern which would have prompted the Executive Director to make the said recommendation is adequately taken care of by recommendation (f) which is to the effect that NGI be directed to submit a report to the Commission detailing the amount of extra neutral alcohol procured by New Goodwill Company from various sources on a yearly basis over a period of 5 years.

136. Finally as regards the concern raised by NGI with respect to the fact that, with the acquisition of all its shares in Grays Distilling by Terra Brands Ltd, the latter will acquire 100 % shareholding in Grays Distilling, so much so that NGI questions whether this situation would not amount to a substantial lessening of competition, the Commission is of the view that, as the holder of 66.66 % of shareholding in Grays Distilling currently , Terra Brand Ltd already has effective control of the said company and as such they are already interconnected within the meaning of the Act. Consequently, the acquisition of an additional 33.33 % of shares in Grays Distilling by Terra Brands will not amount to a merger situation reviewable under the Act. The Commission is also alive to the fact that Terra Brand has stakes in New Goodwill Company, but as rightly pointed out by the Executive Director, this transfer of shares from New Goodwill Investment to Terra Brands Ltd will not change its control over New Goodwill Company[50].

VII DECISION

137. In the premises, for the reasons given above, should NGI be minded to still proceed with the proposed acquisition of an additional 33.33 % of the shares in Medine Distillery Co. Ltd, the Commission directs NGI to comply with ALL the following Orders-

a. divest all its shares and associated rights in Grays Distilling within a maximum period of 6 months as from the date of the present decision;

[50] Paragraph 8.33 of the Final Report

b. divest all its shares and associated rights in Grays Distilling to the existing shareholder of Grays Distilling within a maximum period of 2 months as from the date of the present decision in the event the latter decides to purchase the said shares and associated rights;

c. divest all its shares and associated rights in Grays Distilling to a purchaser approved by the Commission within a maximum period of 6 months as from the date of the present decision in the event the existing shareholder of Grays Distilling fails to purchase the said shares and associated rights within a maximum period of 2 months as from the date of the present decision;

d. seek and obtain the prior approval of the Commission before selling the said shares and associated rights to a purchaser other than the existing shareholder of Grays Distilling within a maximum period of 6 months as from the date of the present decision;

e. report to the Executive Director of the Competition Commission on a monthly basis on the status of the divestment and actions taken by it to ensure prompt execution of the divestment within the given timeframe as set out at paragraphs b. and c. above; and

f. submit on a yearly basis over a period of 5 consecutive years a report to the Executive Director of the Competition Commission detailing the amount of extra neutral alcohol procured by New Goodwill Co. Ltd from all the sources from which it has procured same.

Mr. M. A. Bocus (Chairperson) .....

Mr. A. Mariette (Vice-Chairperson) .....

Mr. C. Seebaluck (Commissioner) .....

Mrs. M. B. Rajabally (Commissioner) .....

Mrs. V. Bikhoo (Commissioner) .....

05 April 2021

Competition Commission

General Notice No. 564 of 2021

NATIONAL LAND TRANSPORT AUTHORITY

ROAD TRANSPORT DIVISION

Notice is hereby given that the following applications have been received by the NLTA and the NLTA will shortly hear the said applications.

APPLICATION FOR PUBLIC 'A' CARRIER'S LICENCE

S.N	LICENCE NO	NAME OF APPLICANT	WEIGHT OF VEHICLE	BASE OF OPERATION	DESCRIPTION OF GOODS
195	NTA/PUB/A/LC/21033	JIB AUTOPARTS AND TRANSPORT LTD	NYP 5000kg GV	Balance John Road, Camp de Masque	General Goods
196	NTA/PUB/A/LC/21034	JIB AUTOPARTS AND TRANSPORT LTD	NYP 6310kg GV	Balance John Road, Camp de Masque	General Goods
197	NTA/PUB/A/LC/21035	GOLAUB Varsha (Born Rughoonauth)	NYP 8000kg GV	Royal Road, Bois D'Oiseau, Laventure	General Goods
198	NTA/PUB/A/LC/21036	HAULKHORY Sheik Nawfal Noorani	NYP 11000kg GV	Bassin Road, Highlands, Phoenix	General Goods
199	NTA/PUB/A/LC/21037	DABEEDIN Akshay Kamlesh Sing	NYP 31050kg GV	Industrial Zone, Plaine Lauzun	General Goods & Containers
200	NTA/PUB/A/LC/21038	ATICS LTD	NYP 15000kg GV	Allée des Manguiers, Pailles	Waste
201	NTA/PUB/A/LC/21039	ATICS LTD	NYP 15000kg GV	Allée des Manguiers, Pailles	Waste
202	NTA/PUB/A/LC/21040	ATICS LTD	NYP 15000kg GV	Allée des Manguiers, Pailles	Waste
203	NTA/PUB/A/LC/21041	LUCKEEA Luvin	NYP 3500kg GV	Leon Road, Providence, Quartier Militaire	General Goods

NATIONAL LAND TRANSPORT AUTHORITY — *continued*

204	NTA/PUB/A/LC/21042	GOVINDEN Nisha (Born Narraïdoo)	NYP 16300kg GV	Route Bassin, Quatre Bornes	General Goods & Containers
205	NTA/PUB/A/LC/21043	MADERBACCUS Saheer	NYP 7000kg GV	Pole 34, Mosque Road, Brisée Verdière	General Goods
206	NTA/PUB/A/LC/21044	RAMJEAN Mohammad Zafir Ally Ackbar	NYP 5600kg GV	Lapotaire Street, Port-Louis	General Goods
207	NTA/PUB/A/LC/21045	DOOMUN Madhvee (Born Pakeeroo)	NYP 5625kg GV	Rue François Dubin, Vallée des Prêtres, Port-Louis	General Goods
208	NTA/PUB/A/LC/21046	SULLIMAN Shazia Bibi	NYP 5700kg GV	Route Militaire, Port-Louis	General Goods
209	NTA/PUB/A/LC/21047	SEEDHEEYAN Vijay Anand	NYP 2500kg GV	Lot No.2, Hermitage, Phoenix	General Goods
210	NTA/PUB/A/LC/21048	HERMANCE Desire Jean Maurice	NYP 27160kg GV	Petite Victoria, Trou D'Eau Douce	General Goods
211	NTA/PUB/A/LC/21049	NOORDALLY Mohammad Wahdeel	NYP 3275kg GV	Alma, Vallée Pitot, Port-Louis	General Goods & Scrap Metal
212	NTA/PUB/A/LC/21050	Compagnie Regionale de Services et de L'Environnement Ltee	9235DC20 4000kg GV	Eco Ranch, Montagne Jacquot, Pointe aux Sables	General Goods
213	NTA/PUB/A/LC/21051	MZA Enterprise Ltd	NYP 10000kg GV	Rue Moreau, Vacoas	General Goods
214	NTA/PUB/A/LC/21052	BHATOO Mohammad Zayyaad Ally	2646ZN95 7680kg GV	Rue Moreau, Vacoas	General Goods
215	NTA/PUB/A/LC/21053	ROSUN Mohammad Azam	NYP 7000kg GV	Crimea, Vallée Pitot	General Goods

NATIONAL LAND TRANSPORT AUTHORITY — *continued*

216	NTA/PUB/A/LC/21054	YELLOW RIDE TRANSPORT CO LTD	NYP 32000kg GV	Kalimaye Road, Barlow	General Goods
217	NTA/PUB/A/LC/21055	YELLOW RIDE TRANSPORT CO LTD	NYP 32000kg GV	Kalimaye Road, Barlow	General Goods
218	NTA/PUB/A/LC/21056	PRO-RENTAL LTD	NYP 8000kg GV	Avenue des Filaos, Mont Calme, La Preneuse, Rivière Noire	General Goods
219	NTA/PUB/A/LC/21057	Truck Busters Company Limited	NYP 32000kg GV	Trio Road, 9th Mile, Triolet	General Goods
220	NTA/PUB/A/LC/21058	Truck Busters Company Limited	NYP 40000kg GV	Trio Road, 9th Mile, Triolet	Containers
221	NTA/PUB/A/LC/21059	Truck Busters Company Limited	NYP 40000kg GV	Trio Road, 9th Mile, Triolet	Containers
222	NTA/PUB/A/LC/21060	Road for Life Ltd	NYP 30000kg GV	Avenue La Ferme, Palma Road, Quatre Bornes	General Goods
223	NTA/PUB/A/LC/21061	KVS. MUSAFIR LTD	NYP 30000kg GV	Trou aux Biches Road, Triolet	General Goods & Coal & Sugar in Bulk
224	NTA/PUB/A/LC/21062	KVS. MUSAFIR LTD	NYP 24390kg GV	Trou aux Biches Road, Triolet	General Goods & Coal & Sugar in Bulk
225	NTA/PUB/A/LC/21063	SUBRATTY Sheheen (Born Jeenally)	NYP 17000kg GV	Village Council Road, Oil Bird Street, Terre Rouge	General Goods & Containers
226	NTA/PUB/A/LC/21064	SIVASANUN Yaswantee (Born Mohun)	NYP 24390kg GV	Kewal Nagar, Bel Air Rivière Sèche	General Goods
227	NTA/PUB/A/LC/21065	Stena Line Ltd	NYP 25000kg GV	Trade & Marketing Centre, Mer Rouge, Port-Louis	Containers

NATIONAL LAND TRANSPORT AUTHORITY — *continued*

228	NTA/PUB/A/LC/21066	Stena Line Ltd	NYP 25000kg GV	Trade & Marketing Centre, Mer Rouge, Port-Louis	Containers
229	NTA/PUB/A/LC/20977	SUMBHOO Daness	NYP 6000kg GV	Ave Lavendieres, Bambous	General Goods
230	NTA/PUB/A/LC/20968	BOICHAR Jean Pierre-Yves Sebastien	5163JL20 6500kg GV	Salomon Lane, Camp de Masque	General Goods & Waste
231	NTA/PUB/A/LC/20980	NAADIR CONTRACTING LTD	NYP 24390kg GV	Ollee Road, Goodlands	General Goods

APPLICATION FOR VARIATION OF PUBLIC 'A' CARRIER'S LICENCE

S.N	REF NO	NAME OF APPLICANT	VEHICLE NUMBER & MAXIMUM GROSS WEIGHT	BASE OF OPERATION	GOODS TO BE CARRIED
232	NTA/PUB/A/LC/20356	BUNGSEE Rameshwarnath	NYP 28460kg GV	Beelur Road, Nouvelle Découverte	From: General Goods & Waste To: Containers
233	NTA/PUB/A/LC/19796	PAYEN Bhavana	5373EZ12 26400kg GV	Royal Road, Notre Dame	From: Water Tank To: Waste
234	NTA/PUB/A/LC/6947	AEL DDS Ltd	1193ZG89 33305kg GV	Tamariniers Street, Roche Bois	From: Petroleum Products To: Inflammable liquid in bulk

NATIONAL LAND TRANSPORT AUTHORITY — *continued*

APPLICATION FOR TRANSFER OF PUBLIC SERVICE VEHICLE (TAXI) LICENCE

S.N	REF NO	NAME OF APPLICANT	VEHICLE NUMBER	BASE OF OPERATION
27	27234/C	From: Jwalaparsad DILCHAND To: Vijay Kumar DILCHAND	**Taxi Car** 5339ZX08	Bramsthan
28	39601/C	From: Devanand RAMSURRUN To: Udev Varma RAMSURRUN	**Taxi Car** 1082AZ11	Ecroignard
29	15268/C	From: (Late) Geandev MAHADEA To: Heirs Geandev MAHADEA to be represented by Foolmut MAHADEA	**Taxi Car** 8028CZ13	La Louise Taxi Stand
30	8902/C	From: Heirs Adam TENGUR Rep by Bibi Amina TENGUR To: Heirs Adam TENGUR to be represented by Shenaz Banon TENGUR	**Taxi Car** 4524ZM00	Reverend Schnepp Street, Cité La Cure
31	44552/C	From: Dhaneswar COWLESSUR To: Preetima FOKEER	**Taxi Car** F2328 (ex 5470ZZ11)	Cité La Ferme, Bambous
32	26206/C	From: (Late) Vineshwar PERSAND To: Heirs Vinesh PERSAND to be represented by Mrs Seelaramanee PERSAND	**Taxi Car** 2578AP16	Beau Bassin Taxi Stand

NATIONAL LAND TRANSPORT AUTHORITY — *continued*

APPLICATION FOR MUTUAL TRANSFER OF BASE OF OPERATION IN PSV(TAXI) LICENCE

S.N	REF NO	NAME OF APPLICANT	VEHICLE NUMBER	BASE OF OPERATION
33	44297/C	Maheshwara Acharya RAMSAMY	**Taxi Car** 1028ZX08	From: Surinam To: Lux Le Morne Hotel
34	23704/C	Rajagopal Acharya RAMSAMY	**Taxi Car** 1790MR15	From: Lux Le Morne Hotel To: Surinam

APPLICATION FOR TRANSFER OF PUBLIC SERVICE VEHICLE (TAXI) LICENCE

S.N	REF NO	NAME OF APPLICANT	VEHICLE NUMBER	BASE OF OPERATION
35	36088/C	From: (Late) Bessesar COONJAN To: Heirs Bessesar COONJAN to be represented by Ww Nina Devi COONJAN	**Taxi Car** 3664MY18	Camp Thorel
36	30066/C	From: SHIBNAUTH Jaivy To: TAGAULLY Abdool Sajid	**Taxi Car** 2478AZ11	Place D'Armes Taxi Stand

NATIONAL LAND TRANSPORT AUTHORITY — *continued*

APPLICATION FOR TRANSFER OF PUBLIC SERVICE VEHICLE (CONTRACT CAR) LICENCE

S.N	REF NO	NAME OF APPLICANT	VEHICLE NUMBER	BASE OF OPERATION
779	24076/D-2/D	From: Koontee Somaroo	3922MY19 6190JL19 8720DC16	From: Trou aux Biches Road, c/o Auberge Chelloise, Trou aux Biches
		To: Chelloise Car Rental & Tours Ltd	10654NV18	To: Trou aux Biches Road, c/o Auberge Chelloise, Trou aux Biches
780	24150/D-11/D	From: KM TWO Ltd	5691AG15 5715AG15 FB1150	From: Royal Road, Pointe aux Canonniers
		To: Travel Point Tours (Mtius) Ltd	FE1150	To: Royal Road, Pointe aux Canonniers

APPLICATION FOR TRANSFER OF PUBLIC SERVICE VEHICLE (CONTRACT BUS) LICENCE

S.N	REF NO	NAME OF APPLICANT	VEHICLE NUMBER	BASE OF OPERATION
8	30903/E	From: Maraz Transport CO LTD	**7755OC12** 14-Seater	From: Cardinal Lane, Petite Rivière
		To: SJKL Transport LTD		To: Ave Jeewoonarain, Palma, Quatre Bornes
9	31322/E-4/E	From: UV FLEET LIMITED	**7022OC13** 15-Seater	From: 35, Avenue des Colombes, Sodnac, Quatre Bornes
		To: Nivedi Company Ltd		To: Morcellement Lonro, Highlands

NATIONAL LAND TRANSPORT AUTHORITY — *continued*

APPLICATION FOR TRANSFER OF ROAD SERVICE LICENCE

S.N	REF NO	NAME OF APPLICANT	ITINERARY
59	NTA 20/63/5700	From: Nuvind Sharma KHADUN To: KING OF LOVE LTD	In respect of 40-seater bus 3210AG04 operating along Route 178 from Melville to Mme Azor.
60	NTA 20/63/1331	From: Mehboob PANCHOO To: TULSI TRAVEL CO LTD	In respect of 64-seater bus 3173MY08 operating along Route 106+ext, 111+ext, 112, 232, 236, 221, 176.
61	NTA 20/63/JJF	From: Satiaruthparkash RAMBURN To: Jugdish RAMBURN	In respect of 22-seater bus 4671AG08 operating along Route 22 from Port-Louis to Grand Gaube.

Any person legally entitled to do so may set out his/her objection/s or other representation/s together with his/her name and address and must give the reasons thereof in writing so that these may reach the ***Secretary to the Licensing Committee, National Land Transport Authority, MSI Building, Royal Road, Les Cassis, Port Louis*** not later than on the ***seventh day*** of publication of this notice, in the Government Gazette. Any objection, that reaches the Secretary to the Licensing Committee after the prescribed time limit will not be entertained.

MSI Building
Les Cassis
Port Louis
14 April 2021

BY AUTHORITY: GOVERNMENT PRINTING DEPARTMENT, LA TOUR KOENIG. 47/04/2021 – 1070