

General Notice No. 582 of 2023



Decision of the Competition Commission

CC/DS/0055

Non- Confidential - Redactions marked as [REDACTED]

**INV 060 – Potential Merger Situation
involving SMS Pariaz Ltd, Silver Sports Ltd,
Peerless Ltd, J.S. Henry Co Ltd, Peak Pools Ltd
and K. Chai Hai Limited (Report of
Undertakings)**

01 March 2023

CC/DS/0055

**Decision of the Commissioners of the Competition Commission
of 01 March 2023**

relating to a proceeding under section 63 of the Competition Act 2007 further
to a report from the Executive Director in the matter referred to as
'INV060 – Potential Merger Situation involving SMS Pariaz Ltd, Silver Sports
Ltd, Peerless Ltd, J.S. Henry Co Ltd, Peak Pools Ltd and K. Chai Hai Limited
(Report of Undertakings)'

THE COMMISSION

Mr. M. Bocus - Chairperson,
Mr. A. Mariette - Vice-Chairperson,
Mrs. V. Bikhoo - Commissioner,
Mrs. S. Dindoyal - Commissioner,

Having regard to the Competition Act 2007,

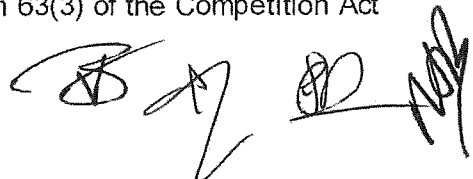
Having regard to the Competition Commission Rules of Procedure 2009,

Having regard to undertakings dated 29th March 2022 offered for and on behalf of SMS Pariaz Ltd, Silver Sports Ltd, Peerless Ltd, Peak Pools Ltd and K. Chai Hai Ltd (hereinafter referred as the "Merger parties") (hereinafter the 'Undertakings'),

Having regard to a report of the Executive Director of the Competition Commission on the Undertakings and submitted to the Commission on 24th June 2022 (hereinafter the 'Report'),

WHEREAS:**1. Introduction**

- 1.1 This Decision relates to Undertakings, which have been offered to the Commission by one [REDACTED] (the 'Acquirer') during an investigation (INV 060) opened by the Executive Director. The investigation is in relation to a potential merger situation involving certain companies operating in the betting and gambling sector *viz.*, SMS Pariaz Ltd, Silver Sports Ltd, Peerless Ltd, J.S. Henry Co Ltd, Peak Pools Ltd and K. Chai Hai Limited.
- 1.2 Having taken cognizance of the said Undertakings and the Executive Director's Report thereon, the Commission has determined the case on the basis of the Undertakings, pursuant to section 63(3) of the Competition Act 2007 (the 'Act').



CC/DS/0055

2. Background to the Executive Director's Investigation

- 2.1. The Executive Director opened the investigation, INV 060, having found reasonable grounds to believe that the Acquirer's acquisition of 100% shareholding in Peerless Ltd, J.S. Henry Co Ltd, Peak Pools Ltd and K. Chai Hai Limited respectively, while already holding shares in SMS Pariaz Ltd and Silver Sports Ltd (hereinafter the 'Transaction'), could amount to a reviewable merger situation within the meaning of section 48 of the Act.
- 2.2. During the investigation, the Acquirer expressed his willingness to resolve the matter expeditiously through undertakings. Written undertakings were accordingly offered to the Competition Commission on 29th March 2022 on behalf of the companies involved in the Transaction (hereinafter the 'Merger parties'¹). The Undertakings are reproduced at **Annex I** to the present Decision.
- 2.3. For the purposes of assessing the efficacy of the Undertakings, the Executive Director consulted and gathered the views of relevant parties thereon. Considering the views expressed by the parties consulted and the assessment carried out, the Executive Director has concluded that the Undertakings satisfactorily address the identified competition concerns and recommends that the Commission determines the case on the basis of the Undertakings and accepts the Undertakings so submitted.

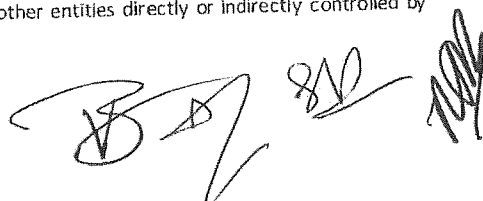
(i) Background of the Industry concerned

- 2.4. The Executive Director's investigation pertains to the betting/gambling sector in Mauritius. Both gambling and betting are regulated activities falling within the purview of the Gambling Regulatory Authority Act 2007 (the 'GRA Act'), which set up the Gambling Regulatory Authority ('GRA'). The objective behind the establishment of the GRA was to bring under the control of one authority all gambling and gaming activities with a view to better control and enhance the monitoring over the gambling sector².
- 2.5. The GRA licenses the following activities³: horse racing organizer, totalizator, bookmaker, Mauritius National Lottery, casino, gaming house, limited payout machines, dart games, pool games, sweepstakes, and ad-hoc licences.
- 2.6. It was gathered that the Merger parties have overlapping activities in the betting sector, and in particular in relation to pool betting, football betting and sweepstakes activities.

¹ For the purposes of the Executive Director's Report and the present Decision, the term 'Merger parties' includes the Acquirer and parties subject to the merger situation namely SMS Pariaz Ltd, Silver Sports Ltd, Peerless Ltd, Peak Pools Ltd and K. Chai Hai Ltd, including their branches, subsidiaries, affiliates and other entities directly or indirectly controlled by them, but excludes J.S. Henry Co Ltd.

² Executive Director's Report, para. 2.18 – 2.45.

³ *Ibid*, para. 2.46.



CC/DS/0055

Pool betting

2.7. Pool Betting is defined under section 2 of the GRA Act as a form of betting where –

- a) a person participates in a competition for making a forecast on any event or contingency on coupons or other forms in any manner as approved by the (GRA) Board;
- b) a person pays stakes for his participation; and
- c) the stakes for each competition are aggregated and dividends are declared and paid to winners on the result of any event or contingency and determined by reference to the stake money paid by those persons but does not include lottery games.

2.8. The GRA Act (section 2) distinguishes between a 'local pool promoter' and a 'foreign pool promoter'. While the local pool promoter is licensed to carry on the business of receiving or negotiating of bets by way of pool betting in Mauritius; its foreign counterpart carries on the business of receiving or negotiating bets by way of pool betting on any event or contingency taking place outside Mauritius, including a combination of horse races.

2.9. Under the GRA Act (section 54(3)), no local pool promoter or agent of a foreign pool promoter is allowed to conduct its pool betting business through any person other than a collector. A collector under the GRA Act in turn means a person that transacts pool betting activities on behalf of a local pool promoter or an agent of a foreign pool promoter

Bookmakers

2.10. Section 44 (1) of the GRA Act provides that no person shall operate fixed odds betting unless he holds the appropriate bookmaker licence.

2.11. A bookmaker licence may be issued to authorise the applicant to operate at the racecourse on application made for the conduct of fixed odds betting on local races.

2.12. A bookmaker licence may be issued authorizing the applicant to operate through remote communication at such place as may be approved by the GRA Board, on application for the conduct of fixed odds bet through remote communication.

2.13. A bookmaker licence may also be issued by the GRA Board authorising an applicant to operate at such place as the Board may approve, the conduct of fixed odds bet on football matches taking place outside Mauritius.

Handwritten signatures and initials at the bottom of the page, including a large signature that appears to be 'J.A.', the number '812', and another signature.

CC/DS/0055

Sweepstakes

2.14. Pursuant to section 2 of the GRA Act, a sweepstake is a lottery scheme organised and approved by the GRA whereby the winning lottery ticket is determined by the rank of the horses taking part in races on a particular race day for which the lottery ticket has been issued. A sweepstake organiser is a person licensed by the GRA to organise sweepstakes. Sweepstakes lottery draws are conducted under the supervision of the officers of the GRA at the Mauritius Turf Club on race days.

(ii) The Parties⁴

2.15. The parties to the investigation are the Acquirer, [REDACTED] SMS Pariaz Ltd, Silver Sports Ltd, Peerless Ltd, Peak Pools Ltd, J.S. Henry Co Ltd and K. Chai Hai Limited (and through K. Chai Hai Limited), Bosco & Co. Ltd and Serge Henry Ltd.

SMS Pariaz Ltd

2.16. SMS Pariaz Ltd (BRN C08021150) is a private limited company incorporated in 1998. It offers the following products at retail level namely, Fixed odds (MTC race, international races and football by SMS); Pool betting (PMU, Peakpool, Top pool); Lottery (Blanc and [REDACTED]).

2.17. The investigation has gathered that SMS Pariaz Ltd holds diverse licenses from the GRA viz., (a) Bookmaker conducting fixed odds bet through remote communication (SMS) for local race; (b) Bookmaker conducting fixed-odds bet in foreign football; (c) Pool collector of Peerless Ltd (PMU), offering bets on foreign horse racing; (d) Pool Collector of J.S. Henry Co Ltd offering bets on foreign football matches; (e) Pool Collector of Peak Pools Ltd offering bets on horse races overseas; (f) Sweepstakes Lottery retailer of Serge Henry Ltd (Lotterie Blanc); and (g) Operator of Limited Payout Machines (LPM).

2.18. SMS Pariaz Ltd operates through [REDACTED] outlets around the Island, out of which [REDACTED] belong to Book System Ltd and [REDACTED] belong to Bet On Line Line Ltd.

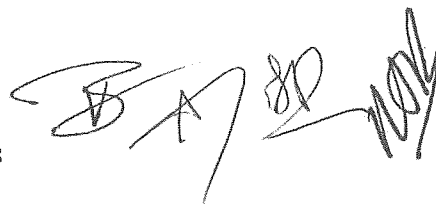
Silver Sports Ltd

2.19. Silver Sports Ltd (BRN C08076882) is a private limited company which was incorporated in 2008. It is licensed for the conduct of fixed odds bet on football matches taking place outside Mauritius.

2.20. Silver Sports Ltd was previously owned by SMS Pariaz Ltd and is now presently owned by [REDACTED] which is itself owned by K. Chai Hai Limited.

Peerless Ltd

⁴ Executive Director's Report, para. 2.18 – 2.42.



CC/DS/0055

2.21. Peerless Ltd (BRN C07008024) is a private limited company incorporated in 1989, which is licensed as an agent of foreign pool promoter. It operates PMU Moris (Pari Mutuel Urbain), which is a pool betting based on French horse racing. PMU Moris is available in the outlets of SMS Pariaz Ltd, Bet On Line Limited, Book System Ltd, Silver Sports Ltd and Bosco & Co. Ltd and in about [REDACTED] individual other outlets.

J.S. Henry Co Ltd

2.22. J.S. Henry Co Ltd (BRN C07052361) is a private limited company incorporated in 2004, licensed and regulated for Local Pool on football matches.

2.23. It operates pool branded "Top Pool", which is available in outlets of SMS Pariaz Ltd, Bet On Line Limited, Book System Ltd, Silver Sports Ltd and Bosco & Co. Ltd and in about [REDACTED] other outlets.

Peak Pools Ltd

2.24. Peak Pools Ltd (BRN C07002056) is a private limited company incorporated in 1972, which holds a licence for "Local Pool Promoter" under section 53(1)(a) of the GRA Act. Peak Pools Ltd operates pool branded "Peak Pool".

2.25. Peak Pool is available in SMS Pariaz Ltd, Bet On Line Limited, Book System Ltd, Silver Sports Ltd and Bosco & Co. Ltd.

K Chai Hai Ltd

2.26. K Chai Hai Ltd (BRN C07023878) is a private limited company incorporated in 2000 and its nature of business is registered as 'printing industry employing less than 10 persons'.

2.27. K. Chai Hai Limited owns 100% in [REDACTED] 100% in Serge Henry Ltd, 100% in Bosco & Co. Ltd, 100% in [REDACTED] 100% in [REDACTED] It should be noted that [REDACTED] [REDACTED] acquired Silver Sports Ltd (99%) in January 2021 and that previously, Silver Sports Ltd was wholly owned by SMS Pariaz Ltd.

Bosco & Co Ltd

2.28. Bosco & Co Ltd (BRN C08076685) is a private limited company incorporated in 2008, which holds a football bookmaker licence under section 44 (5) of the GRA Act.

Serge Henry Ltd

2.29. Serge Henry Ltd (BRN C09026646) is a private limited company incorporated in 2001. The company is licensed under section 51 of the GRA Act to organize sweepstakes.

CC/DS/0055

(iii) The Transaction

2.30. The investigation has gathered that in 2020, the Acquirer acquired:

- (i) all of the 1000 issued ordinary shares in Peerless Ltd from one [REDACTED]
- (ii) all of the 10 issued ordinary shares in J.S. Henry Co Ltd from one [REDACTED]
- (iii) all of the 250 issued ordinary shares in Peak Pools Ltd from one [REDACTED] and [REDACTED]
- (iv) all of the 500 issued ordinary shares in K. Chai Hai Limited from [REDACTED]

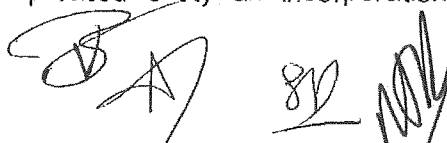
2.31. The company K. Chai Hai Ltd in turn has shares in [REDACTED] Serge Henry Ltd, Bosco & Co. Ltd, [REDACTED] and [REDACTED] **Annex II** [REDACTED]

3. The Executive Director's Assessment of Competition Concerns

- 3.1. The Executive Director's assessment of case facts serves the principal purpose of assessing the existence of and nature of competition concerns that may arise from the Transaction (as opposed to providing conclusive findings as is the case in a full-fledged investigation).
- 3.2. To this effect, the Executive Director has assessed the existence of any such competition concern around the merger review framework under sections 47 and 48 of the Act in terms of:
 - i. whether the Transaction may amount to a merger situation;
 - ii. whether the market share(s) of the Merger parties are likely to meet the statutory thresholds within one or more relevant markets likely affected by the Transaction; and
 - iii. whether the merger situation may result in or may have resulted in substantial lessening of competition (when measured against a counterfactual).

A. Existence of merger situation

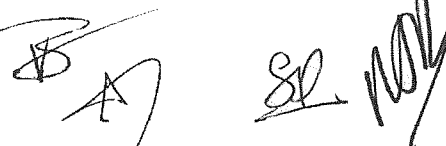
3.3. The Report has first assessed whether the parties to the Transaction are likely to qualify as enterprise within the meaning of section 2 of the Act. The Executive Director takes the view that the process of incorporation (as a company) will confer upon the incorporated entity an incorporation



CC/DS/0055

number/company registration number and if it conducts business, it will also have to be registered under the Business Registration Act 2002 pursuant to which, it will be provided a business registration number ("BRN"). A business is defined under the Business Registration Act 2002 as "any activity carried out for profit or gain and includes every form of trade, commerce, manufacture, profession or occupation".

- 3.4. It is gathered that all of the 8 parties concerned are incorporated in Mauritius as companies and have each been conferred with a BRN. They are further licensed by the GRA to operate in the betting sector in Mauritius. The Executive Director accordingly finds that the entities are likely to qualify as enterprises and the territorial nexus with Mauritius is also likely to be established.
- 3.5. The Executive Director has then proceeded to assess whether the Transaction in question will likely lead to enterprises being brought under common ownership and control. The investigation has gathered, from the series of transactions effected by the Acquirer, that –
- a) by acquiring 100% shares in Peerless Ltd and Peak Pools Ltd in November 2020 (from one [REDACTED]), the Acquirer may have brought them under his ownership and will now be in a position to exercise a controlling interest in said enterprises;
 - b) by acquiring 100% shares in J.S. Henry Co Ltd (from one [REDACTED]), the Acquirer may have brought it under his ownership. The Acquirer will be the sole owner of it and as such the Acquirer may have brought J.S. Henry Co Ltd under his ownership and control;
 - c) by acquiring 100% shares in K. Chai Ltd (from one [REDACTED]), the Acquirer may have brought the latter under its sole ownership and is likely to be in a position to exercise a controlling interest over it;
 - d) from his acquisition of sole ownership and control over K. Chai Ltd, the Acquirer would likely become the ultimate owner of Bosco & Co Ltd as well as Serge Henry Ltd respectively with ability to exercise controlling interest over each;
 - e) the indirect acquisition of [REDACTED] and [REDACTED] through acquisition of 100% shares in K. Chai Hai Limited however, are not material to the investigation and have not been assessed insofar as the former are not licensed by the GRA and thus, do not appear to have activities in the betting sector.
- 3.6. In light of the above, the Executive Director finds it likely that the Acquirer has brought Peerless Ltd, J.S. Henry Co Ltd, Peak Pools Ltd and, through K. Chai Hai Limited, has further brought Bosco & Co. Ltd, Serge Henry Ltd, SMS Pariaz Ltd and Silver Sports Ltd, under his common control and



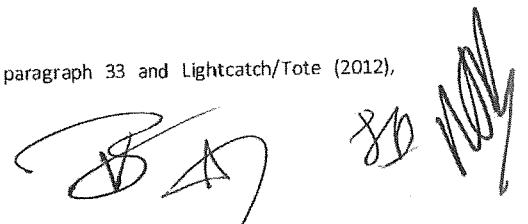
CC/DS/0055

ownership within the meaning of the Act. Therefore, the series of acquisitions comprising the Transaction may amount to merger situations within the meaning of the Act.

B. Market Definition (the Relevant market(s))

- 3.7. Considering the services provided by the Merger parties, the focal products/services for purposes of market definition are considered to be: pool betting services, fixed odds football betting and sweepstakes. The Executive Director has further considered that for some of the services provided two levels of supply may be further distinguished viz, an upstream market for operating the bets and a downstream market for retail sales of the betting services.
- 3.8. Starting off from the premise of betting services, the Executive Director has assessed whether betting and gaming activities can be demarcated from one another.
- 3.9. Based on demand-side substitution analysis, the Executive Director takes the view, with support from foreign case law⁵, that betting and gaming appear to be distinct services by virtue of their characteristics, perceived risks and availability. With regards to betting, consumers generally believe that the outcome of the event in question can be forecasted to an appreciable extent (such as in horse-racing when odds are placed based on a horse's perceived likelihood to win). Gaming is viewed as a game of chance. Further, most betting activities are in relation to sports event and conditional upon the sports event taking place. Such is not the case for gaming activities which can be played at gaming houses equipped with gaming machines.
- 3.10. With regard to supply-side and considering the regulatory framework of the GRA, it has been reported that the licensing criteria applicable to the respective activities, logistics and expertise requirements are quite distinct such that a supplier may not be able to substitute from gaming activities to betting activities, at least not without incurring significant costs. Also, the activities, the risks involved, and investments are quite different wherewith suppliers may not have the ability or incentive to switch from supplying gaming to betting services.
- 3.11. Having considered betting to be distinct from gaming activities and given the focus of the investigation, the Executive Director has analysed whether distinct markets can be further defined within the betting sector, based on supply of pool betting services, the supply of fixed-odds betting activities, and the supply of sweepstakes activities.

⁵ GVC/Ladbrokes Coral (2017), paragraph 43, PaddyPower/Betfair (2015), paragraph 33 and Lightcatch/Tote (2012), paragraph 15.

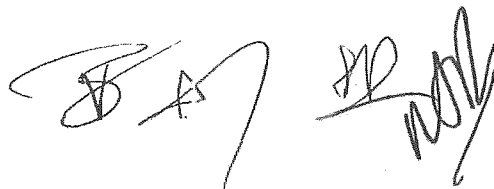


CC/DS/0055

(i) Pool betting services

- 3.12. Considering the statutory scope of pool betting activities under the GRA Act, the Executive Director has assessed the level of substitutability between pool betting and three other categories of betting activities, namely, totalisator betting; fixed-odds betting; and sweepstakes.
- 3.13. Pool betting ("pool") is based on the concept of permutations. Players guess the outcome of a series of events and win the jackpot if all the guesses are true. While for totalisator betting ("tote"), one can generally opt to play just one event. The risk and nature of the bets also vary. While for "tote", one can play for a single race, it seems that for pool betting, there is need to play on multiple games, thus the perceived chances are different. The Executive Director has thus considered pool and tote to be distinct markets.
- 3.14. Within the second category, it has also been considered that by virtue of their respective characteristics and associated risk level, pool betting is unlikely to be substitutable with fixed-odds betting. Similar position has been adopted by the UK OFT in its merger assessment of LightCatch Ltd/Tote Ltd acquisition⁶. In fixed-odds betting, the winnings are fixed according to odds set in advance, and such odds are either determined by the bookmaker (sportsbook betting) or derived from a betting exchange, where customers set their own odds and bet against each other (exchange betting). From supply-side, bookmakers may also not easily switch between these two types of betting activities, within a reasonable period, given applicable GRA licensing requirements for each type of betting activity and the fact that fixed-odds betting may be riskier for the bookmaker since his profit margin is not guaranteed but varies with each outcome.
- 3.15. Within the third category, it has been considered that sweepstakes combine the notion of lottery with a sports event which make its formulation quite unique and distinct from other types of betting or gaming activities. Consequently, it appears that sweepstakes will be less likely to be substitutable with other horse racing bets, where there is higher certainty on the gains and risks. It is easier for a punter to play a minimal amount for sweepstakes, compared to other types of bets, where the minimum stake is likely to be higher and the risk element may be different. The logistics and licence requirements of pool betting and sweepstakes seem to be different and as such from supply-side perspective, substitution does not appear to be feasible.
- 3.16. Considering his analysis, the Executive Director views that supply of pool betting services may be a distinct market on its own with two supply levels:

⁶ Executive Director's Report, para 5.34.

The image shows two sets of handwritten signatures and initials in black ink. The first set on the left consists of a large, stylized signature that appears to be 'B A' followed by a long horizontal stroke. The second set on the right consists of a signature that looks like 'JP' followed by a signature that looks like 'NSB'.

CC/DS/0055

(a) upstream level (with pool promoters/organisers) and (b) downstream level (with pool resellers/collectors).

(ii) Fixed-odds football betting services

3.17. With respect to fixed-odds betting services, it has been considered that limited substitutability exists between the latter service and sweepstakes services. Sweepstakes organisers may not be able to start providing fixed-odds betting activities due to switching costs, the specific licenses required for each outlet, and the rights attached in respect of the football leagues for football betting.

3.18. Insofar as fixed-odds betting is available for horseracing and football activities, these two are likely to be distinct markets. Fixed-odd football betting is available year-round while fixed odd horse racing is seasonal. It has also been gathered that there is limited impact on sales of fixed odd football betting when horse racing odd is available. Due to the logistics and licensing requirements, supply substitution may also be limited.

3.19. In the Executive Director's view, fixed-odd football betting may constitute a market on its own.

(iii) Sweepstakes services

3.20. Considering the lottery nature of sweepstakes services, the Executive Director has assessed whether these are substitutable with other types of lotteries such a "Lottotech".

3.21. Given the disparity in the amount of the bets for the two types of lotteries; the purely random nature of "Lottotech" coupled with the fact that the sweepstakes lottery is linked with a horse race; from a demand-side substitutability perspective, sweepstakes are likely to be in a separate market.

3.22. A similar view is adopted at supply-side substitutability. Other suppliers may not have the ability and incentive to start supplying sweepstakes within a period of two years, as demand for sweepstakes is falling. In addition, sweepstakes organisers should be licensed by the GRA, and the supply of such lotteries may require different technologies, distribution logistics and is moreover dependent on the horse racing events taking place.

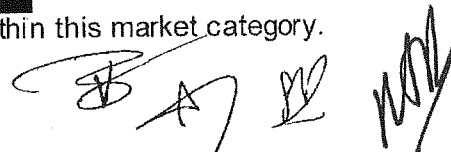
3.23. Consequently, the Executive Director adopts the view that sweepstakes may be considered a market of its own. Further there may be (i) an upstream market for the supply of sweepstakes (the sweepstakes organiser) and (ii) a downstream market for the retail sale of the sweepstakes lottery (agent).

CC/DS/0055

- 3.24. In light of his afore analysis, the Executive Director has considered the following markets as potential relevant (product) markets for purposes of furthering his assessment, namely -
- a) the upstream market for the supply of pool betting activities,
 - b) the downstream (retail) market for the supply of pool betting activities,
 - c) the market for the supply of fixed-odds football betting,
 - d) the upstream market for the supply of sweepstakes activities, and
 - e) the downstream (retail) market for the supply of sweepstakes activities.
- 3.25. From a geographic perspective, the Executive Director has considered that supply of fixed-odds football betting services is likely to be regional in scope. This is because licence issuance is location centric. From demand-side perspective, substitution may be limited on account of travelling cost associated with moving from one location to another and also betting experience may vary from one location to another.
- 3.26. With respect to pool betting and sweepstakes, supply is likely to be national insofar as these products are offered through licenced retail outlets located throughout the island.

C. Market share analysis

- 3.27. The Executive Director has indicatively assessed the parties' market shares within the respective markets identified.
- 3.28. Within the *upstream market of pool betting in Mauritius*, four operators are at play namely, Peerless Ltd, Peak Pools Ltd, J.S. Henry Co Ltd, and Pool Joseph Merven Limited. Based on their turnover figures, the average market share over the two years appears to be about [REDACTED] for Peerless Ltd, [REDACTED] for each of Peak Pools Ltd and J.S. Henry Co Ltd and about [REDACTED] for Pool Joseph Merven Limited. The combined market share post-merger of the parties concerned (Peerless Ltd, Peak Pools Ltd, J.S. Henry Co Ltd) appears to be about [REDACTED]; thus, meeting the statutory market share threshold.
- 3.29. At *downstream level for supply of pool betting*, licenses held by retail operators (pool collectors) have been used as proxy for market share calculation. It has been gathered that SMS Pariaz Ltd together with Silver Sports Ltd hold about [REDACTED] ([REDACTED] licences) of market share in terms of pool collector licenses. Post-merger, SMS Pariaz Ltd will hold an additional [REDACTED] ([REDACTED] licences), through the acquisition of Bosco & Co. Ltd, totalling [REDACTED] market share. Market share threshold under the Act is likely not met within this market category.



CC/DS/0055

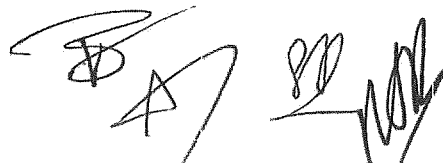
- 3.30. Within the *upstream market for the supply of sweepstakes in Mauritius*, three operators are concerned - [REDACTED] Serge Henry Ltd (trading as "Loterie Blanc") and Merven Frères Ltd (trading as "Badinage Merven"). The transaction will confer the Acquirer with control over 2 of the 3 existing operators *viz.*, Serge Henry Ltd and [REDACTED] that is about [REDACTED] of the operator licence for the market. As such, the market share threshold is likely to be satisfied in this market category.
- 3.31. At *downstream level (supply of sweepstakes)* and considering that there are many sweepstake retailers with retailers of pool betting also offering sweepstakes; it is unlikely that the market share threshold of 30 % or more will be met in this market post-merger.
- 3.32. Finally, the market for the *supply of fixed-odds football betting activities* is characterized by 8 operators namely Silver Sports Ltd, SMS Pariaz Ltd, Stevenhills Ltd, Play On Line Ltd, Automatic Systems Ltd, Sports Lepep Ltd, Bosco & Co. Ltd and Empowering People Ltd. Based on turnover figures, it is estimated that the market share of SMS Pariaz Ltd is below [REDACTED] (which also includes other services also) while that of Silver Sports Ltd and Bosco & Co Ltd are estimated to be less than [REDACTED] and [REDACTED] respectively. As such, the parties to the merger situation are unlikely to meet the market share threshold within this market.
- 3.33. The market share by region (based on the number of locations) also does not appear to meet requisite statutory threshold absent significant overlap in those regions and the presence of alternate suppliers.

D. Competitive Assessment of the Transaction

- 3.34. The Executive Director has proceeded with competitively assessing the Transaction using the framework below:
- (i) setting the counterfactual – that is, what would have been the state of competition absent the Transaction;
 - (ii) the theory of harm – the potential competition concerns;
 - (iii) assessment of constraints (*viz.*, ease of entry and countervailing buyer power).

(i) The Counterfactual

- 3.35. Insofar as the counterfactual for merger cases is generally considered to be the state of competition prior to the merger, the Executive Director is of the opinion that the counterfactual in the present case would involve a market structure similar to the one that prevailed prior to the Transaction.



cc/bs/0055

3.36. The Acquirer has, for its part, claimed that his acquisition served to diversify its product/service portfolio while expanding its commercial presence and to enhance multichannel service offers. Its acquisition has allowed hiring of better-skilled and experienced personnel increasing service quality; led to technological improvement and product innovation; and generated the scale necessary to withstand shocks/uncertainties associated with applicable regulations – all of which generate efficiencies and benefit consumers.

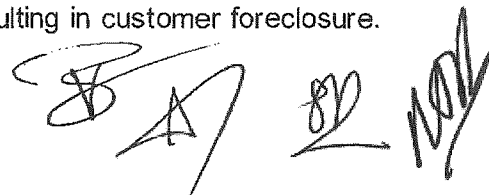
(ii) The Competition Concerns

3.37. Considering the parties' involvement within the different markets identified and their estimated market shares, the Executive Director takes the view that the Transaction may result in horizontal overlaps and/or creation of vertical linkages.

3.38. **In the pool betting sector**, the Transaction may result in the Acquirer controlling 3 out of 4 operators at the upstream level (organization of the games) and may also give rise to vertical consolidations. Compared to the counterfactual, the Acquirer has brought under his control 3 out of the 4 pool operators [REDACTED]. The combined market shares pre- and post-transaction of the parties involved has increased from [REDACTED] to [REDACTED] approx. resulting in further market concentration.

3.39. The Report further observes that SMS Pariaz Ltd, Silver Sports Ltd, and Bosco & Co. Ltd are also active in the downstream market as pool collectors albeit their estimated market share is unlikely to meet the 30% market share threshold. SMS Pariaz Ltd [REDACTED] [REDACTED] which are also resellers of pools among others. This may further accentuate the vertical concerns.

3.40. The Executive Director is concerned that the Transaction will increase the market share of the Merger parties both in the upstream and downstream markets for pool betting, and this may give rise to customer foreclosure and input foreclosure. The Executive Director is particularly concerned that the Transaction may increase the ability and incentive of the acquiring group to engage in both types of foreclosure. It may for instance, have the incentive to maximise its own sales at the downstream market where there is a competing reseller (for instance located near its own outlet). It may also have the incentive to foreclose that rival to maximise its own sales, resulting in input foreclosure. Further, given the number of retail outlets under its control and the fact that it owns the upstream supplier, it may have the incentive not to sell products of upstream competitors to maximise its own profits at the upstream levels, resulting in customer foreclosure.



CC/DS/0055

- 3.41. **In the sweepstakes market**, the Transaction may enable the Acquirer to control, including through material influence, 2 out of 3 operators at the upstream level and may also result in vertical consolidations.
- 3.42. At upstream market level and with the acquisition of K. Chai Hai Limited, the Acquirer may have indirectly acquired control over 1 of the 3 main sweepstakes operators - Serge Henry Ltd. While the Acquirer does not own [REDACTED], it is believed that the Acquirer, [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] The Executive Director has reported⁷ from the website of [REDACTED] that [REDACTED] [REDACTED] *ainsi que Serge Henry Ltée nous ont confié la gestion du marketing de leur loterie respectives et en contrepartie [REDACTED] recevra tous les profits après taxe émanant de ces activités et cela pour une durée de trois ans.*"
- 3.43. As such, the Executive Director is concerned that the Transaction may result in transparency between the activities of [REDACTED] and Serge Henry Ltd, to the detriment of competition. Given the above note on the website of the [REDACTED] that it derives the profits of [REDACTED] the Executive Director is further concerned that the Acquirer may have the incentive to maximise the joint profit of these companies. However, the Acquirer submitted that he is not involved in the management and decision-making process of [REDACTED] [REDACTED] Furthermore, and considering the counterfactual (viz., the fact that the former owner of Serge Henry Ltd was also involved in [REDACTED]), the potential concern was not deemed to be alarming.
- 3.44. Considering that the companies of the acquirer group also act as resellers of sweepstakes, it was viewed that the Transaction could also result in vertical concerns similar to those arising from the market for pool betting.
- 3.45. **In relation to fixed-odds football betting market**, the Transaction would likely result in horizontal overlap and also vertical consolidations, but the extent to which the market share threshold is likely to be met within the latter market is arguable.
- 3.46. Post-Transaction, the Acquirer will hold [REDACTED] separate football betting licences with required market share threshold likely met at regional level. Concerns have been expressed to the Executive Director considering the market context wherewith firstly, by virtue of the GRA's licensing requirements, market operators must practice a minimum margin when setting odds. The Acquirer may, in view of the multiple licenses it now holds, engage in a strategy to adhere to that requirement for each individual license while at

⁷ Executive Director's Report, para. 6.26.



cc/bs/0055

the same time setting its odds considering the overall gain and strategy⁸, to the detriment of single licensees. Secondly, this problem may be further accentuated with the general policy in place to limit licenses in the betting sector wherewith entry is made possible solely through acquisition of an existing licensee.

4. Undertakings offered by the Acquirer

4.1. On 29th March 2022, the Acquirer, for and on behalf of the merger parties, offered the Competition Commission undertakings to expedite the matter and to allay the concerns held by the Competition Commission (per Annex I).

4.2. Essentially, the Acquirer/Merger parties undertake that they will –

(a) divest of the company and enterprise of J.S. Henry Co Ltd together with the entirety of its assets and related branches, subsidiaries, affiliates or other entities directly or indirectly controlled by it (hereinafter the 'divestment business'), by selling it to a purchaser who is independent of the Merger parties;

(b) for purposes of the afore-undertaking and within 3-months from its acceptance by the Competition Commission, [REDACTED]

[REDACTED] Should this fail to take place, the Merger parties further undertake to appoint a Trustee, approved by the Competition Commission, who will be mandated to sell the divestment business to a purchaser also approved by the Competition Commission (hereinafter referred to as "the Purchaser") within [REDACTED]

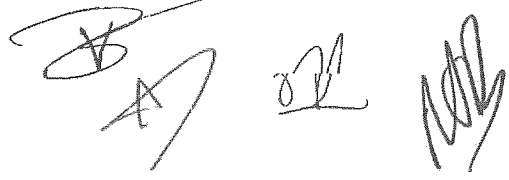
(c) pending the sell-off of the divestment business, ensure that -

- the said business is carried out separately from the Purchaser's business with separate sales or brand identity being maintained,
- the business (including its assets/goodwill, nature/rage and standard of goods and services supplied) is maintained and preserved,

⁸ The concern expressed was that the Acquirer might set its odds in such a manner that each of the 3 operator odds is most appealing in relation to one outcome of the event, like one is most attractive on win, another one on draw and the third one on lose.

CC/DS/0055

- no assets of the divestment business are disposed of or transferred and no interest in the divestment business is created or disposed of, other than the ordinary course of business,
 - no changes are made to key staff of the divestment business, and all reasonable steps are taken to encourage all key staff to remain with the divestment business;
- (d) following the sell-off of the divestment business –
- [REDACTED]
 - procure, for a [REDACTED] that no employee/director of the parties' affiliated enterprises holds concurrent directorship/managerial position in the divestment business or any company having control thereof without the Competition Commission's prior approval,
 - nor participate, for a 4-year period, in the formulation of, influence or attempt to influence the policy of the divestment business or any company having control thereof;
- (e) offer, in particular through Peerless Ltd, Peak Pools Ltd and Serge Henry Ltd, their pool betting and sweepstakes services to resellers (agents) not related to the Merger parties on fair, reasonable and non-discriminatory ('FRAND') terms and to further offer, through SMS Pariaz Ltd, Silver Sports Ltd and Bosco & Co. Ltd, access to their outlet and retail facilities to other suppliers of pool betting and sweepstakes not related to the merger parties on FRAND terms;
- (f) implement or procure to implement all necessary measures towards ensuring that they, including their directors and employees, do not participate in decision making nor have access to information, unless public, pertaining to [REDACTED] with a corresponding undertaking from the Acquirer that he will neither directly nor indirectly exercise any control over [REDACTED]
- (g) through, Bosco & Co. Ltd, SMS Pariaz Ltd and Silver Sports Ltd, determine their odds independently; and
- (h) report to the Competition Commission for the divestment period on the status of the implementation of said divestment on a monthly



CC/DS/0055

basis followed by a yearly reporting, for a 3-year period, on the implementation of their Undertakings.

5. The Executive Director's Assessment of Undertakings

- 5.1. The Executive Director, considering the framework of section 63 of the Act, has focused his assessment on the extent to which the Undertakings address the identified concerns, regard had to their effectiveness, their timeliness and proportionality.
- 5.2. The Executive Director has, for reasons set out in his Report⁹, found the set of structural and behavioural measures proposed as Undertakings to be effective, timely and proportionate and in so doing, to satisfactorily address the identified competition concerns of horizontal nature as well as risks from the vertical linkages created within the likely affected markets.
- 5.3. The Executive Director in particular, considers that the proposal for divestment of the business and enterprise of J.S. Henry Co Ltd, as per the process and conditions proposed by the Acquirer/parties, will allow the market to be restored as promptly as possible to its pre-merger structure with the 4 existing operators being controlled by 3 different persons. Should the process of reverse acquisition not materialise, the divestment to an independent Purchaser, as per the terms and conditions proposed, are also favourably viewed as ensuring that the process be done in a proper manner to safeguard competition. The Executive Director is of the further view that additional measures have been proposed to maintain the viability of the divestment business prior to the divestment while ensuring that the parties cannot, directly or indirectly, take part in the commercial decision-making of the divested business, post divestment, which could hinder its ability to sustain competition on the market. These set of measures are viewed as adequately addressing the horizontal concerns (unilateral effects) within the pool betting services market.
- 5.4. With regards to vertical concerns that he had identified in the pool betting and sweepstakes markets, the Executive Director is of the opinion that the parties' behavioural remedies serve to ensure that the parties, particularly through, Peerless Ltd, Peak Pools Ltd SMS Pariaz Ltd, Silver Sports Ltd and Bosco & Co. Ltd, will not discriminate against competitors in relation to supply pool betting and sweepstakes at the upstream level and in relation to access to their retail outlets at the downstream level.
- 5.5. The Executive Director has had regard to the ring-fencing measures intended to address the horizontal concerns of customer and input foreclosure in the sweepstakes market. He accordingly finds that Serge Henry Ltd and [REDACTED] will remain under separate management

⁹ Executive Director's Report, para. 7.17-7.36.

CC/DS/0055

and control and as such, will be managed separately as was the case prior to the Transaction. The Acquirer will in the same vein ensure that he does not, directly or indirectly, exercise any control over [REDACTED]. Secondly, the Undertakings will ensure that there is no exchange of information between these two entities likely to hinder competition; thus, ensuring that the competitive status of the afore-two enterprises is maintained to the pre-merger level.

- 5.6. With regard to the concern expressed to the Executive Director in the football betting market, it has been viewed that the Undertaking offered by SMS Pariaz Ltd, Silver Sports Ltd and Bosco & Co. Ltd to independently determine their odds will address the concern relating to coordination at source in a satisfactory manner.
- 5.7. Finally, the Executive Director adopts the view that the reporting mechanism proposed in the Undertakings will enable the Commission to monitor its implementation for the initial periods, and the reporting for a period of 3 years seems reasonable in this particular case.

6. Legal Framework

- 6.1. Having found reasonable grounds to believe that the Transaction is likely to amount to a merger situation subject to review in accordance with sections 47 and 48 of the Act, the Executive Director proceeded to investigate same pursuant to sections 30(c) and 51(1) of the Act. However, insofar as Undertakings were offered during investigation, the Executive Director's assessment thereof has been guided, rightly so, by the corresponding provisions of section 63 of the Act.

Determination based on Undertakings

- 6.2. Under section 63(1) of the Act, enterprises may offer undertakings to the Commission "to address any concern that has arisen, or is likely to arise, during an investigation in respect of (...) a merger situation". From section 2 of the Act, "undertaking" in turn means "an obligation or commitment given in writing by an enterprise to, and accepted by, the Commissioners, to prevent or terminate a restrictive business practice".
- 6.3. Pursuant to section 63(3) of the Act, the Commission may determine a case on the basis of an undertaking. The threshold for the acceptance of undertakings under section 63(3) is that the Commission must be satisfied that the undertakings address "all the concerns it has about any prevention, restriction, distortion or substantial lessening of competition distortion (...) of competition" which may arise from the matter at hand. The Commission has accordingly confined its ensuing determination to the legal threshold enunciated at section 63(3) of the Act.

CC/DS/0055

7. Determination

7.1. Having regard to the concerns identified during investigation, the Undertakings offered by the Acquirer for and on behalf of the Merger parties, and the Executive Director's assessment thereof as set out in his Report, the Commission finds that the evaluation of potentially affected markets as well as the competition concerns likely resulting from the series of acquisitions effected by the Acquirer, in the given market circumstances and context, are valid and sufficiently reasoned.

7.2. We are satisfied that—

7.2.1. *in relation to pool betting*, the Transaction may cause 3 out of 4 players in the market to be under the common control and may thereby substantially change the market structure resulting in horizontal concerns (unilateral effects) in the form of increased market power of the Acquirer, which may impede innovation and entry and expansion in the market;

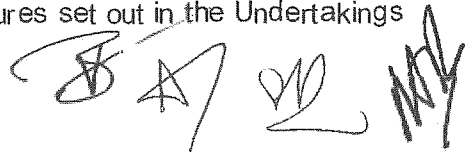
7.2.2. *in relation to pool betting*, the Transaction may further result in vertical integration and may give rise to vertical concerns, in terms of input and customer foreclosure, given the important market share that the Acquirer may have in the upstream market for pool betting and the downstream market for the sales of such services through SMS Pariaz Ltd, Silver Sports Ltd and now Bosco & Co. Ltd;

7.2.3. *in relation to sweepstakes*, the Transaction may bring through K. Chai Hai Limited and through [REDACTED] Serge Henry Ltd and [REDACTED] under common control, which are 2 of the 3 sweepstakes suppliers on the market, and may thereby substantially change the market structure and may result in horizontal concerns in the form of unilateral effects which may increase the market power of the Acquirer in that market and may impede innovation and entry and expansion in the market;

7.2.4. *in relation to sweepstakes*, the Transaction may further result in vertical integration and may give rise to vertical concerns, in terms of input and customer foreclosure, given the important market share that the acquirer may have in the upstream market for sweepstakes and the downstream market for the sales of such services through SMS Pariaz Ltd, Silver Sports Ltd and now Bosco & Co. Ltd; and

7.2.5. *in relation to football betting*, the Transaction may lead to the acquirer holding [REDACTED] separate football betting licences, thereby increasing the risks that the odds are set in such a manner as to foreclose competition;

7.3. The Commission therefore determines, as per section 63(3) of the Act, that the set of structural and behavioural measures set out in the Undertakings

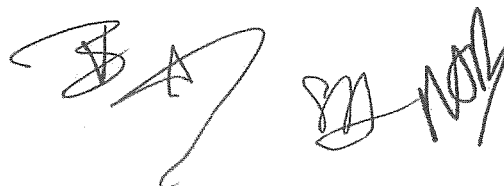


cc/ds/0055

satisfactorily address all the concerns which it has regarding any possible substantial lessening of competition intervening within the identified markets from the Transaction.

7.4. Our reasons in this respect are more fully set out below:

- (a) the divestment of the enterprise of J.S. Henry Co Ltd, in its entirety, whether by reverse acquisition or sell-off to an independent purchaser aims towards restoring, as closely as possible, the market structure prevailing prior to the Transaction insofar as pool operators are concerned; thereby, addressing the unilateral effects concerns in the pool betting services market;
- (b) the divestment process and applicable criteria for appointing the Trustee as well as selecting the Purchaser, as an alternative to reverse acquisition, tend towards ensuring that the divestment is achieved in a reasonably prompt manner and independently of the Merger parties;
- (c) the 'hold separate' measures, as couched in the Undertakings, are necessary to the divestment process to assure the viability of the divestment business prior to the divestment and that action is not taken by the Merger parties immediately after the divestment to hinder the ability of the business to sustain competition on the market;
- (d) the Merger parties' further commitment towards offering supply on FRAND terms to operators operating at upstream and downstream levels in the pool betting and sweepstakes markets goes towards ensuring that services that were previously supplied prior to the Transaction would continue to be offered without discriminating against competing resellers at the downstream level nor against competitors at upstream level by offering the latter access to the parties' outlets and retail facilities on FRAND terms;
- (e) the proposed ring-fencing measures, coupled with the respective undertakings from the Acquirer, address the transparency concerns by eliminating the risk of the parties' directors or employees interfering with the decision-making process of [REDACTED] and/or having access to the latter's non-public, strategic information on its business;
- (f) the concern expressed to the Executive Director resulting from probable coordination of odds of SMS Pariaz Ltd, Silver Sports Ltd and Bosco & Co. Ltd is also satisfactorily addressed by the parties' commitment to independently determine their odds; and



CC/DS/0055

- (g) the provision of a reporting mechanism will facilitate monitoring of the implementation of divestment process specifically and of the Undertakings generally for a reasonable time-period.

8. Decision

NOW THEREFORE,

For the reasons set out in this Decision, the Commission decides as follows:

- 1) We accept the Undertakings offered by the Acquirer/Merger parties (as herewith annexed at Annex I), which shall be published as per section 63(4) of the Act;
- 2) Upon their acceptance, the said Undertakings shall have effect as a direction given under the Act; and
- 3) The Undertakings shall be effective as from the date of the present Decision.

Mr. M. Bocus
(Chairperson)

Mr. A. Mariette
(Vice-Chairperson)

Mrs. V. Bikhoo
(Commissioner)

Mrs. S. Dindoyal
(Commissioner)

The image shows four handwritten signatures, each written on a horizontal dotted line. From top to bottom, the signatures are: a large, stylized signature; a signature that appears to be 'A. Mariette'; a signature that appears to be 'V. Bikhoo'; and a signature that appears to be 'S. Dindoyal'.

Made on 01 March 2023.

CC/DS/0055

ANNEX I**Undertakings offered by The Acquirer
dated 29th March 2022 in relation to
INV 060 - Investigation
(The 'Undertakings')**

CC/DS/0055

CONFIDENTIAL

UNDERTAKINGS IN RELATION TO THE INVESTIGATION INTO A POTENTIAL MERGER SITUATION INVOLVING SMS PARIAZ LTD, SILVER SPORTS LTD, PLEERLESS LTD, J.S. HENRY CO LTD, PEAK POOLS LTD AND K. CHAI HAI LIMITED (INV060) TO THE COMPETITION COMMISSION PURSUANT TO SECTION 63 OF THE COMPETITION ACT 2007.

29 March 2022

CC/DS/0055

TABLE OF CONTENTS

1.	Definitions.....	1
2.	Statement of Facts.....	2
3.	The Concerns Of The Competition Commission.....	5
4.	Undertakings under section 63.....	6
A.	Commitment 1: Divestment.....	6
B.	Commitment 2: Vertical conduct.....	9
C.	Commitment 3: Ring Fencing.....	10
5.	Reporting.....	10
6.	Effective date of Undertaking	10

1

CC/DS/0055

1. Definitions:

1.1 For the purposes of this Undertaking, the following terms shall have the following meaning:

"Acquirer" means [REDACTED]

"Acquiring Group" means SMS Pariaz Ltd and Silver Sports Ltd, and includes their branches, subsidiaries, affiliates or other entities directly or indirectly controlled by them;

"the Act" means the Competition Act 2007;

"Competition Commission" means the Commission established under section 4 of the Act;

"Control" shall be construed in accordance with section 47 of the Act;

"Divestment Business" means the company and enterprise of J. S. Henry Ltd together with its assets and includes its branches, subsidiaries, affiliates or other entities directly or indirectly controlled by it, excluding the Merger Parties;

"Effective Date" means the date on which the Competition Commission accepts this Undertaking pursuant to section 63(4) of the Act;

"Final Divestiture Period" means [REDACTED]

"Investigation" means the investigation of the Executive Director into a potential reviewable merger situation involving the acquisition of Peerless Ltd, J.S. Henry Co Ltd, Peak Pools Ltd and K. Chai Hui Limited by [REDACTED] who already owned shares in SMS Pariaz Ltd and Silver Sports Ltd, referred as INV060;

"Key Staff" means staff within the Divestment Business in executive positions or having managerial responsibilities, including the Hold Separate Manager;

"Merger Parties" means the Acquirer, the Acquiring Group and the Targets excluding J.S. Henry Ltd;

"Targets" means Peerless Ltd, Peak Pools Ltd, J.S. Henry Ltd and K. Chai Hui Ltd, and includes their branches, subsidiaries, affiliates or other entities directly or indirectly controlled by them;

"Trustee" means the person appointed pursuant to paragraph 4.12 to carry out the Trustee Functions;

"Trustee Functions" means the functions set out in paragraph 4.14;

"Undertaking": means this document containing the obligations and commitments being offered by the Merger Parties under section 63 of the Act;

4

CC/DS/0055

2. Statement of Facts

- 2.1 On 17 August 2021, the Merger Parties were informed of the launching of an investigation by the Executive Director of the Competition Commission into a potential reviewable merger situation, within the meaning of sections 47 and 48 of the Act involving the acquisition of Peerless Ltd, J.S. Henry Co Ltd, Peak Pools Ltd and K.Chai Hai Limited by [REDACTED] who already owned shares in SMS Pariaz Ltd and Silver Sports Ltd.
- 2.2 The Acquirer expressed his willingness to resolve the matter expeditiously through undertakings and as such requested to be communicated with the preliminary competition concerns of INV060.
- 2.3 Through a letter dated 08 September 2021, the Acquirer was made aware of the said preliminary concerns of INV060.
- 2.4 A meeting was thereafter held in the office of the Competition Commission on the 17th of September 2021 to discuss the said concerns and potential undertakings. Thereon discussions on potential undertakings continued.
- 2.5 The Merger Parties are offering this present Undertaking in view of allaying the concerns raised by the Executive Director of the Competition Commission in respect of INV060.

Description of Main Parties

SMS Pariaz Ltd

- 2.6 SMS Pariaz Ltd is a private limited company which was incorporated in 1998, with business registration number C08021150 and having its registered office at Lisle Geoffroy Street 2nd Floor Room 303-305, Chancery House, Port Louis.

Silver Sports Ltd

- 2.7 Silver Sports Ltd is a private limited company which was incorporated in 2008, with business registration number C08076882 and having registered office at 4 Remy Ollier Street Port Louis. It is licensed and regulated by the GRA and holds a licence for bookmaker football under section 44 (5) of the GRA Act.

Peerless Ltd

- 2.8 Peerless Ltd is a private limited company which was incorporated in 1989, with business registration number C07008024 and having registered office at 1, Jemmapes Street Port. It is

CC/DS/0055

regulated by the GRA under section 53 (1) (b) and Part XIX of the Gambling Regulatory Authority as an agent of foreign pool promoter.

- 2.9 Peerless Ltd operates PMU Moris (Pari Mutuel Urbain), which is a pool betting based on French horse racing. PMU Moris is available in the outlets of SMS Pariaz Ltd, Bet on Line Ltd, Booksystem Ltd, Silversports Ltd and Bosco & Co Ltd and in [REDACTED] individual retailer-shops.

J.S. Henry Co Ltd

- 2.10 J.S. Henry Co Ltd is a private limited company which was incorporated in 2004, with business registration number C07052361 and having registered office at 6/10, Chancery House, Lislet Geoffroy Street, Port Louis [REDACTED]. It is licensed and regulated by the GRA under section 53 (1)(n) and Part XIX of the GRA Act for Local Pool on football matches.

- 2.11 J.S. Henry Ltd operates pool branded "Top Pool". Top Pools is available in the outlets of SMS Pariaz Ltd, Bet on Line Ltd, Booksystem Ltd, Silversports Ltd and Bosco & Co Ltd and in [REDACTED] individual retailer-shops.

Peak Pools Ltd

- 2.12 Peak Pools Ltd is a private limited company which was incorporated in 1972, with business registration number C07002056 and having registered office at 1 Jemmappe Street Port Louis. Peak Pools Ltd is licensed and holds a licence for "Local Pool Promoter" under section 53 (1) (n) of the GRA Act.

- 2.13 It operates pool branded Peak Pool. Peak Pool is available SMS Pariaz Ltd, Bet on Line Ltd, Booksystem Ltd, Silversports Ltd and Bosco & Co Ltd and in [REDACTED] individual retailer-shops.

K. Chai Hai Limited

- 2.14 K. Chai Hai Limited is a private limited company which was incorporated in 2000, with business registration number C07023878 and having registered office at [REDACTED] CNR Ruel Follereau and Dr Moliere Street, Mare Gravier, Beau Bassin. Its nature of business includes "printing industry employing less than 10 persons".

- 2.15 Through K. Chai Hai Ltd, the Acquiring Group indirectly acquired stakes in companies in which K Chai Hai Ltd has stakes, namely [REDACTED] Serge Henry Ltd, Bosco Ltd, [REDACTED], [REDACTED].

Bosco & Co Ltd

CC/DS/0055

2.16 Bosco & Co Ltd is a private limited company which was incorporated in 2008, with business registration number C08076685 and having registered office at Royal Road Arsenal. Bosco & Co Ltd holds a football bookmaker licence under section 44 (5) of the GIRA Act.

2.17 It has one main place of business with 5 additional places of business.

Serge Henry Ltd

2.18 Serge Henry Ltd is a private limited company which was incorporated in 2001, with business registration number C09026646 and having registered office at 6 John Kennedy Street Port Louis.

2.19 Serge Henry Ltd is licensed under the GIRA Act to organize sweepstakes which is a form of lottery where the winner is determined by a draw and on the result of such horse race as the Board may approve.

Description of Transactions

2.20 The Acquirer had acquired the ordinary shares of the companies listed below as follows:

(a) SMS Pariaz Ltd

██████████ the Acquirer had acquired all the 100 issued ordinary shares in SMS Pariaz Ltd at eight different intervals.

(b) SILVER SPORTS LTD

██████████ the Acquirer had acquired, through K.Chai Hai Ltd and Asset Growth Ltd, 48,850 ordinary shares out of the total number of 48,900 issued ordinary shares in Silver Sports Ltd, at seven different intervals.

(c) PEERLESS LTD

██████████ the Acquirer had acquired all 1000 issued ordinary shares in Peerless Ltd.

(d) J.S.Henry Ltd

██████████ the Acquirer had acquired all the 10 issued ordinary shares in J.S.Henry Ltd.

(e) PEAK POOLS LTD

██████████ the Acquirer had acquired all the 250 issued ordinary shares in Peak Pools Ltd.

CC/DS/0055

(f) K. CHAI HAI LTD

[REDACTED] the Acquirer had acquired all the 500 issued ordinary shares in K. Chai Hai Ltd

(g) BOSCO & CO LTD

[REDACTED] the Acquirer had acquired, through K. Chai Hai Ltd, all the 4433 issued ordinary shares in Bosco & Co Ltd.

(h) SERGE HENRY LTD

[REDACTED] the Acquirer had acquired, through K. Chai Hai Ltd, all 2500 issued ordinary shares in Serge Henry Ltd.

3. The Concerns Of The Competition Commission

3.1 The Executive Director of the Competition Commission, through a letter dated 08 September 2021, informed the Merger Parties of the preliminary concerns of the Investigation which are as follows:

- i. In relation to pool betting, the transactions may cause 3 out of 4 players in the market to be under common control and may thereby substantially change the market structure resulting in horizontal concerns in the form of increased market power of the Acquirer resulting in unilateral effects which may impede innovation and entry and expansion in the market;
- ii. In relation to pool betting, the transactions may result in vertical integration and may give rise to vertical concerns, in terms of input and customer foreclosure, given the important market share that the Acquirer may have in the upstream market for pool betting and the downstream market for the sales of such game through SMS Pariaz Ltd and Silver Sports Ltd and now Bosco & Co Ltd;
- iii. In relation to sweepstakes, the transactions may bring through K. Chai Hai Ltd and through [REDACTED] Serge Henry Ltd and [REDACTED] under common control, which are 2 of the 3 sweepstake suppliers on the market, and may thereby substantially change the market structure and may result in horizontal concerns in the form of unilateral effects which may increase the market power of the Acquirer in that market and may impede innovation and entry and expansion in the market;
- iv. In relation to sweepstakes, the transactions may result in vertical integration and may give rise to vertical concerns, in terms of input and customer foreclosure, given the important market share that the Acquirer may have in the upstream market for sweepstakes and the downstream market for the sales of such game through SMS Pariaz Ltd and Silver Sports Ltd and now Bosco & Co Ltd;
- v. In relation to football betting, concerns have been expressed that the Acquirer will hold separate football betting licences, thereby the risk that odds is set in such a manner as to foreclose competition (Please note that due to some conflicting data during the enquiry, this concern remains to be further assessed through clarification of further data);

CC/DS/0055

- vi. In relation to football betting, the transaction may lead to market concentration and may give rise to market power and result in reduced choice in certain regions given the location of outlets of Boseco & Co Ltd and those of SMS Pariaz Ltd *(Please note that due to some conflicting data during the enquiry, this concern remains to be further assessed through clarification of further data);*
- vii. In relation to the off-racecourse betting in general, the transactions may confer upon the Acquirer a significant proportion of operator's licence with the risk of impeding potential competition inasmuch as licensing may be an important element of entry, expansion, innovation and competition.

4. Undertakings under section 63

- 4.1 Under section 63 of the Act, a written undertaking may be offered to the Competition Commission to address any concern(s) that has arisen, or is likely to arise, during an investigation in respect of a merger situation.
- 4.2 This document, which shall be referred to as the "Undertaking", contains the commitments being offered by the Merger Parties under section 63 of the Act and as per Rule 28(1) of the Competition Commission Rules of Procedures 2009.
- 4.3 Without making any admission to the above-identified concerns of the Competition Commission or any legal liability whatsoever or howsoever arising from same, this Undertaking is being offered by the Acquirer for and on behalf of the Merger Parties in view of expediting matters and allaying the concerns raised by the Executive Director with respect to the investigation.
- 4.4 The Acquirer is duly authorized to act on behalf of the Merger Parties; a copy of the Board Resolutions of each of the Merger Parties authorizing the Acquirer to offer this Undertaking on their behalf is herewith attached as Annex I.

The Commitments

A. Commitment I: Divestment

- 4.5 The Merger Parties, and in particular the Acquirer, undertakes to divest of the Divestment Business in its entirety, including all rights and ownership in the Divestment Business, by selling it to a purchaser who is independent of the Merger Parties. In this spirit,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CC/DS/0055

- 4.6 [REDACTED]
[REDACTED] the Merger Parties undertake to appoint a Trustee who will be mandated to sell the Divestment Business to a Purchaser approved by the Competition Commission (the "Purchaser") within a [REDACTED]
- 4.7 The time limits in this section may be extended by the Competition Commission to a maximum of [REDACTED] in total where it is so reasonable and appropriate.

by way of Condition

- 4.8 The Purchaser will:
- (a) satisfactorily addresses the substantial lessening of competition in relation to pool betting;
 - (b) be independent of and unconnected to the Merger Parties;
 - (c) have the financial resources, expertise (including the managerial, operational and technical capability), incentive and intention to maintain and operate J.S. Henry Ltd as part of a viable and active business in competition with the Acquiring Group and other competitors in the supply of pool betting;
 - (d) be reasonably expected to obtain all necessary approvals, licenses and consents from the relevant regulatory authorities; and
 - (e) not create a realistic prospect of a substantial lessening of competition within any market or markets in Mauritius.
- 4.9 The Competition Commission may require the Merger Parties to provide it with such information and documentation as it may reasonably require to satisfy the Competition Commission that the proposed purchaser will fulfil the requirements as set out in paragraph 4.8 above.

by way of Condition

- 4.10 Within [REDACTED] the Merger Parties shall propose [REDACTED] potential Trustees to the Competition Commission in order of preference.
- 4.11 The person or company nominated pursuant to paragraph 4.10 shall save as required or permitted by the Competition Commission be:
- (a) independent of the Merger Parties and any potential Purchaser(s) of the Divestment Business;
 - (b) be a registered law practitioner, legal consultant, accountant or investment advisor or other professionals capable to discharge the Trustee Functions;

✓

CC/DS/0055

- (c) fit and proper to be appointed as Trustee; and
- (d) unlikely to become exposed, either directly or indirectly, to a conflict of interest that impairs or may likely impair their objectivity or independence in discharging the Trustee's mandate

4.12 Within 20 Working Days of the Competition Commission approving, at its discretion, one or more persons nominated by the Merger Parties and their proposed mandates pursuant to, and subject to any modifications the Competition Commission deems necessary for the Trustee to carry out its mandate, the Merger Parties shall direct the Trustee to sell the Divestment Business.

Mandate of Trustee

4.13 The terms of the mandate of the Trustee shall be:

- (a) an exclusive, irrevocable mandate to sell the Divestment Business, to a purchaser or purchasers approved in writing in advance by the Competition Commission at a fair price and on such reasonable terms and conditions as the Trustee considers appropriate to effect expedient sale;
- (b) a mandate to take any other steps necessary for, or incidental to, the Trustee's mandate under subparagraph (a) above;
- (c) a comprehensive power of attorney to the Trustee to enable it to take all steps necessary or appropriate to effect the sale of the Divestment Business; and
- (d) a mandate to comply with any directions given by the Competition Commission.

4.14 The Merger Parties shall not give any instructions or requests to the Trustee which may conflict with its mandate. The Trustee shall report to the Executive Director on the divestment process.

4.15 The Merger Parties shall take all such steps as are reasonably necessary to enable the Trustee to carry out its functions.

4.16 The Merger Parties shall bear the costs involved with the divestment including payments of the Trustee.

Business to be sold

4.17 Pending the divestment of Divestment Business to the satisfaction of the Competition Commission in accordance with the provisions of this Undertaking, the Merger Parties will ensure that:

- (a) the Divestment Business is carried on separately from the Purchaser's business with its separate sales or brand identity being maintained;

CC/DS/0055

- (b) except in the ordinary course of business, no substantive changes are made to the organisational structure of the Divestment Business or the management responsibilities within the Divestment Business;
- (c) except with the prior written consent of the Competition Commission, the Divestment Business is maintained and preserved, including facilities, assets and goodwill;
- (d) the nature, description, range and standard of goods and services currently supplied by the Divestment Business are maintained and preserved;
- (e) no assets of the Divestment Business are disposed of or transferred and no interest in the Divestment Business is created or disposed of, other than the ordinary course of business;
- (f) no changes are made to Key Staff of the Divestment Business, and all reasonable steps are taken to encourage all Key Staff to remain with the Divestment Business.

4.18 Commitment 1: Divestment

4.18 Except with the prior written consent of the Competition Commission, following the divestment of the Divestment Business the Merger Parties:

- (a) shall not, directly or indirectly, hold, acquire or re-acquire any interest in the Divestment Business or any company carrying or having Control of the Divestment Business [REDACTED]
- (b) shall procure that no employee or director of the affiliated enterprises belonging to the Merger Parties for so long as they are an employee or director of Affiliated Enterprises of the Merger Parties, holds or is nominated to any directorship or managerial position in the Divestment Business or any company having Control over the Divestment Business, without the Competition Commission's prior written consent, [REDACTED]
- (c) shall not participate in the formulation of, or (other than in the ordinary course of business) influence or attempt to influence, the policy of the Divestment Business or any company having Control over the Divestment Business, [REDACTED]

B. Commitment 2: Vertical conduct

4.19 The Merger Parties, and in particular Peerless Ltd, Peak Pool Ltd and Sergio Henry Ltd jointly undertake that they will also offer their pool betting and sweepstakes services to resellers (agents) not related to the Merger Parties on fair, reasonable and non-discriminatory terms.

4.20 The Merger Parties, and in particular SMS Parroz Ltd, Silversports Ltd and Bosco & Co Ltd jointly undertake to offer access to their outlet and retail facilities to other suppliers of pool

CC/DS/0055

betting and sweepstakes not related to the Merger Parties on fair, reasonable and non-discriminatory terms.

C. Commitment 3: Ring Fencing

- 4.21 The Merger Parties shall implement or procure to implement all necessary measures to ensure that they, including their directors and employees, do not participate in decision making nor have access to information, unless public, pertaining to [REDACTED]
- 4.22 The Acquirer shall ensure that he shall not directly or indirectly exercise any control over [REDACTED]
- 4.23 The Merger Parties shall ensure that Bosco & Co Ltd, SMS Pariaz Ltd and Silver Sports Ltd determine their odds independently.

5. Reporting

- 5.1 The Merger Parties shall for the divestment period report to the Competition Commission on the status of the implementation of this Undertaking on a monthly basis. Thereafter [REDACTED] [REDACTED] the Merger Parties, or any part of such enterprises remaining under common control, shall report to the Competition Commission on a yearly basis on the implementation of this Undertaking.

6. Effective date of Undertaking

- 6.1 This undertaking shall take effect from the date it is accepted by the Competition Commission in the form of a direction.
- 6.2 The Merger Parties recognise and acknowledge that this undertaking shall be governed and construed in all respects in accordance with the Mauritian Law.

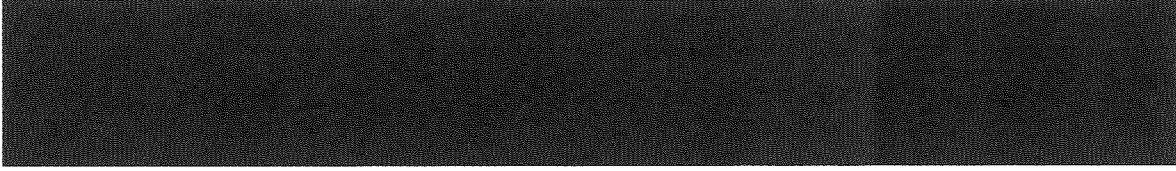
[REDACTED]
[REDACTED]
[REDACTED]

29 March 2022

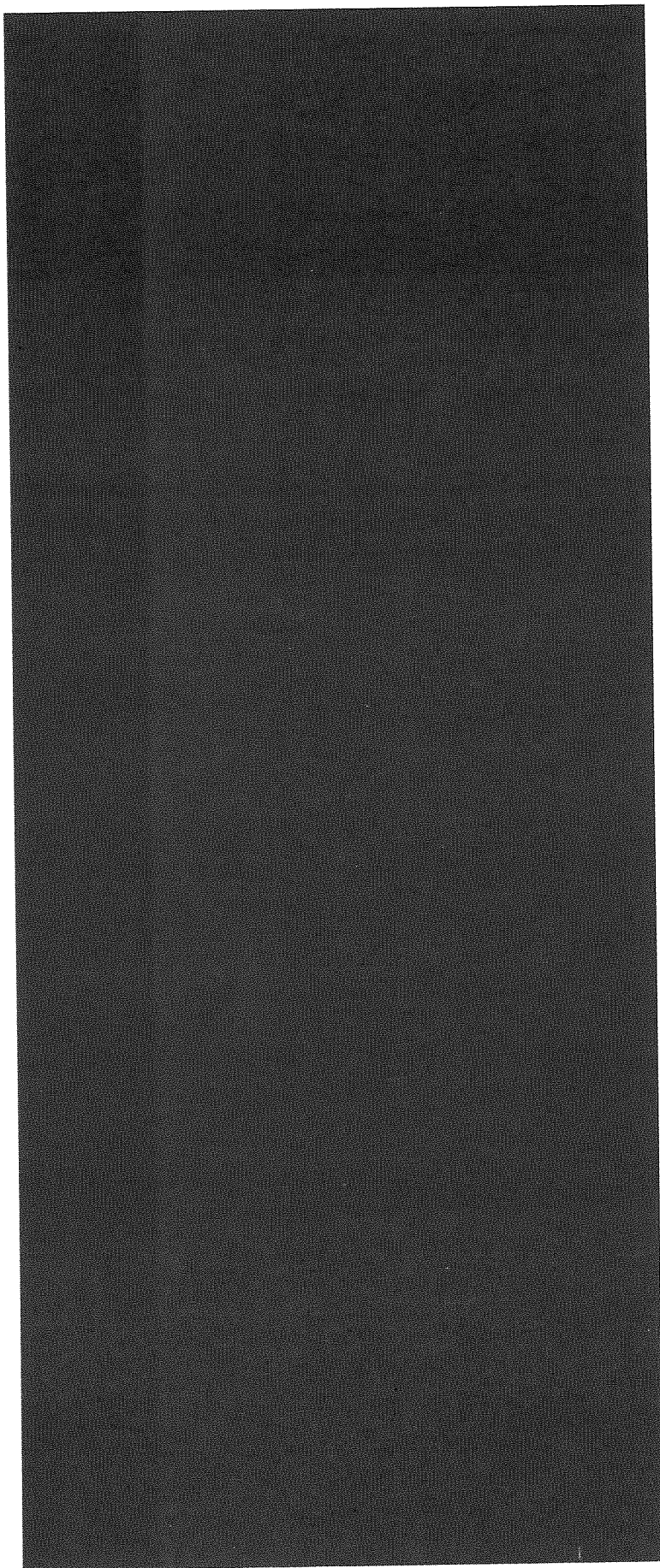
Duly authorised for and on behalf of Merger Parties

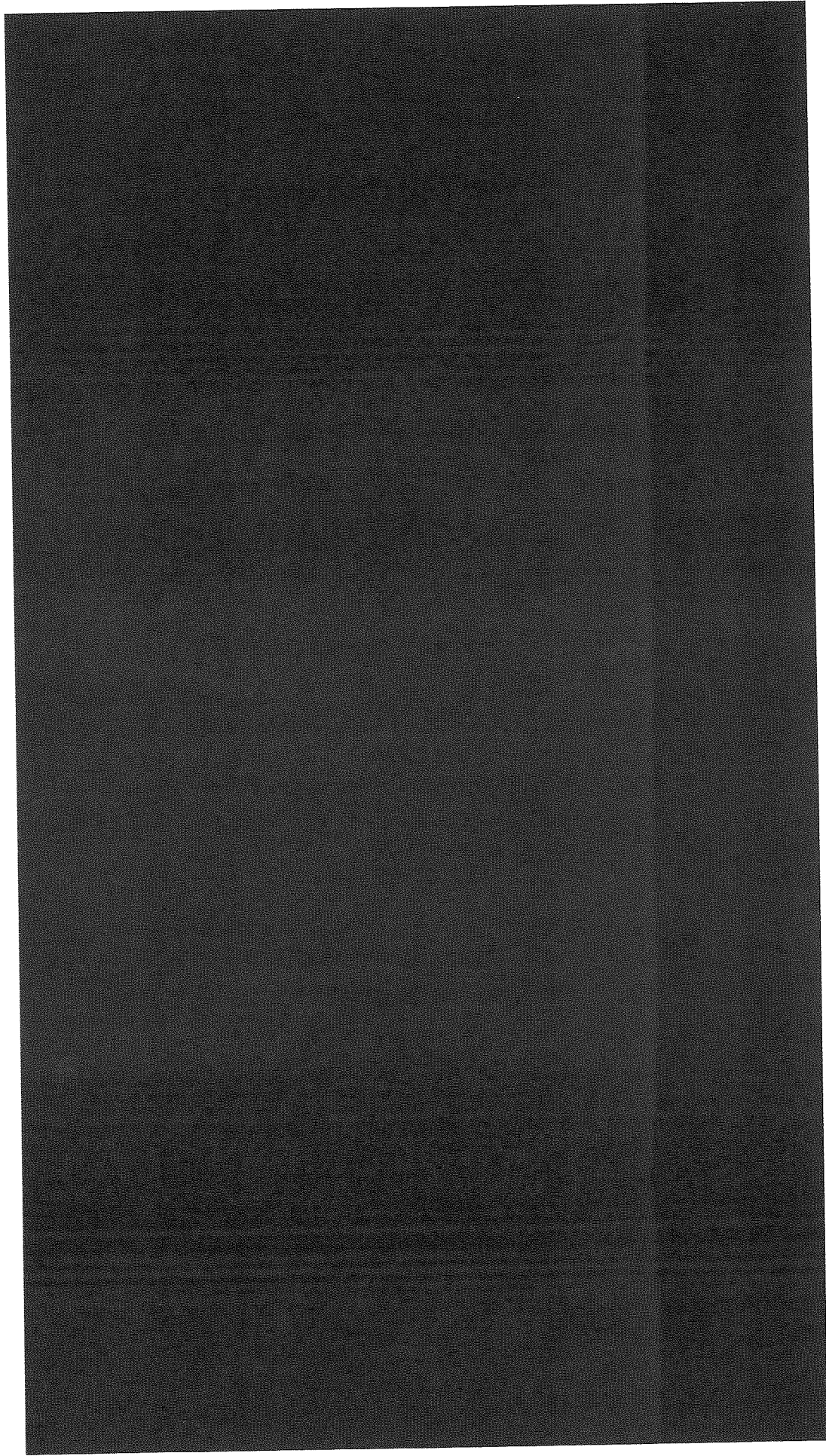
CC/DS/0055

ANNEX II:



CC/DS/0055





cc/DS/0055