



# FAIR TRADING COMMISSION

## Summary Report

**TITLE:** Proposed Acquisition of iExchange Inc. Assets by CashWiz (BRB) Ltd., [*CashWiz/ iExchange*]: Analysis and Decision

**DATE:** May 05 /2023

# DETERMINATION OF MERGER APPLICATION

## Cashwiz (BRB) Limited and iExchange Inc.

Section 20 of the Fair Competition Act, CAP.326C of the Laws of Barbados

Dated May 5, 2023

### Introduction

1. The Fair Trading Commission (hereafter, the “Commission”) considered the Application filed on July 1, 2022 by CashWiz (BRB) Ltd (hereafter “CashWiz” or the “Purchaser” or “Acquirer”)<sup>1</sup> and iExchange Inc<sup>2</sup> (hereafter “iExchange” or the “Seller”) – collectively the “Applicants” or the “Parties”.
2. The Application seeks the approval for the purchase by CashWiz, of iExchange’s pawn business and substantially all of its assets and properties. The transaction is executed through an Asset Purchase Agreement (APA), which has been negotiated by both parties.

### The Undertakings Involved

3. The following describes the main players in the proposed transaction, as determined by the Commission.

*The Purchaser: CashWiz (BRB) Ltd.*

4. **CashWiz (BRB) Ltd.** is a company incorporated under the *Companies Act CAP 308 of the Laws of Barbados* (hereafter “Companies Act”), with its registered office at Parker House, Wildey Business Park, St. Michael. It is a wholly-owned subsidiary of Simple Management Holdings Inc., a company registered in the United States of America.

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<sup>1</sup> CashWiz submitted its merger application on June 20, 2022. It is represented by Chancery Chambers, Attorneys-at-Law located at Chancery House, High Street, Bridgetown, St. Michael, Barbados

<sup>2</sup> iExchange Inc submitted its merger application on June 24, 2022. It is represented by Elliot D. Mottley & Co. Attorneys-at-Law located at Shenstone, Strathclyde Drive, St. Michael, Barbados

CashWiz operates a consignment store, which sells a wide selection of pre-owned and new products—including jewellery (gold, diamonds *etc.*), fine art, antiques, game consoles, & electronics—and it also provides a ‘pawn-loan’<sup>3</sup> option for consumer-owned valuables as a service.

5. **Simple Management Holdings Inc.** is a United States-based company, which wholly owns two branded chains of what the principals describe as “non-traditional financial and retail establishments”.<sup>4</sup> These chains operate in the state of Florida, in the United States of America under the “Simple Pawn” brand; and in ten countries<sup>5</sup> in the Caribbean under the brand “CashWiz”.

*The Target: iExchange Inc.*

6. **iExchange Inc.** is a company incorporated in Barbados under the Companies Act. It is engaged in the business of retailing and wholesaling of products (*e.g.*, electronics and jewellery) and pawning from its three locations<sup>6</sup>.

## The Proposed Transaction

7. CashWiz proposes to acquire substantially all the assets and property of iExchange pursuant to the APA. These assets are listed under Section 2.2 of the APA, and include *inter alia*, leases of real property, tangible personal property, inventories, accounts receivable, and pawn loans/charges. Contained in Section 10.7(a) of the APA is a non-compete clause which will be in effect for two (2) years.

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<sup>3</sup> A loan advanced to customers who have pledged household goods or personal effects as the security on the loan. See Encyclopædia Britannica (Encyclopædia Britannica, Inc.)  
<https://www.britannica.com/money/pawnbroking>.

<sup>4</sup> See “Retail & Financial Solutions,” Simple Management Group, accessed March 15, 2023,  
<https://www.simplemanagementgroup.com/>.

<sup>5</sup> These countries include Antigua & Barbuda, the Bahamas, Barbados, Cayman Islands, Dominica, Grenada, Jamaica, Saint Vincent & the Grenadines, St. Kitts & Nevis, and the Turks & Caicos

<sup>6</sup> These three locations are Sogo Plaza, Broad Street, Bridgetown, St. Michael; Massy Stores Building, Warrens St. Michael; and #4 James Fort Building, Hincks Street, Bridgetown, St. Michael.

8. The purchase will be consummated pending performance of certain obligations by the Purchaser, and review of the merger by the Commission. Ancillary to the APA is a separate Transition Agreement, which details certain services the Seller intends to provide to the Purchaser to ensure the orderly transition of the business.

### **Rationale for the Merger**

9. iExchange intends to exit the market to focus on other ventures, and to this end approached CashWiz with a proposal to take over the business. The transaction for CashWiz is consistent with its desire to expand its retail capabilities across Barbados and the wider Caribbean region.
10. CashWiz is of the view that this growth will create additional jobs, and marks an expansion in a market where it currently operates.

### **The Relevant Product Markets**

11. The FCA requires at Section 20 (7) that in the conduct of an investigation into a proposed merger the Commission shall take into account:
  - *The structure of the markets likely to be affected by the proposed merger;*
  - *The degree of control exercised by the enterprises concerned in the proposed merger in the market and particularly the economic and financial power of the enterprises;*
  - *The availability of alternatives to the services or goods provided by the enterprises concerned in the merger;*
  - *The actual or potential competition from other enterprises and the likelihood of detriment to competition; and,*
  - *The likely effect of the proposed merger on consumers and the economy.*

12. It follows that for the Commission to analyse the structure of the market under consideration, or the intensity of competition therein, it is necessary to first define the relevant product and geographical market(s) concerned in the merger. For clarity, it is fundamental to note that the concept of relevant market in competition law and policy is different to that used in other frameworks. In competition law and policy frameworks, the relevant market includes two dimensions in its definition: product characteristics and geographical components. In addition, the definition considers both the demand-side effect, and the potential impact of likely suppliers in the relevant market definition<sup>7</sup>.
13. That said, an accurate definition of the relevant market is essential for ensuring that market shares or other indicators provide evidence about the extent of the firms' market power (*i.e.*, its ability to influence activities in the market, inclusive of the price of goods and services). The products concerned in the relevant market include those goods and services supplied by the merging firms and their competitors, and the goods and services that could plausibly serve as their substitutes.

### **Applicant's View of the Market**

14. The Applicants contend that the product markets are as follows:
  - i. Retail pawnbroking
  - ii. Precious metal dealing

### **Commission's View of the Market**

15. Desk research, as well as primary research involving the engagement of stakeholders, have identified two business streams in retail pawnbroking:
  - i. Pawning

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<sup>7</sup> Economic theory suggests that if consumers can switch to available alternatives or have the ability to source a substitute, it is unlikely for a price increase to be profitable for the firm contemplating the price increase. Therefore, it is necessary to include products or services in the relevant market to which consumers would most likely switch in response to an increase in prices. Additionally, if alternative suppliers would need to incur additional costs to enter the relevant market, they typically would not be considered as part of that market. However, they can be considered as potential competition.

ii. Product retail

*Pawning*

16. Pawnbroking in its simplest form can be described as a collateralized loan, there is an irresistible comparison to other financial services such as traditional banks, and unsecured lending agencies. However, engagement with industry stakeholders highlighted important differences, which distinguish these markets. Pawning is usually concerned with the lending of small monetary loans. The loan in this case is a function of the value the broker places upon the item the borrower uses as collateral. Therefore, a borrower will not receive a loan amount in excess of the market value of the item used as collateral, since the risk for the broker is the likelihood of not being able to recover the loan amount from reselling the item if the borrower defaults.
17. In Barbados, pawnbroking is regulated by the Pawnbrokers Act<sup>8</sup>; which provides the contours within which pawnbrokers should operate. It sets out *inter alia* that it is an offence for a pawnbroker to operate without a license, which should be renewed on an annual basis.
18. Pawnbroking in Barbados is also regulated from a secondary standpoint by the *Precious Metals and Second-Hand Metals Act, 2013* (hereafter “Precious Metals Act”), provided that the pawnbroker in question accepts precious metals (defined as gold, silver or platinum or any combination thereof)<sup>9</sup>, as collateral and the *Telecommunications Act* if the pawnbroker wishes to trade in any prescribed telecommunications or radio communications apparatus (*e.g.*, cell-phones) These transactions are different from any other pawnbroking transaction, since all other items used as collateral are unregulated.
19. This Precious Metals Act controls the trading of precious and second-hand metals, and was passed in response to an uptick in crime related to their trade (eponymously

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<sup>8</sup> Enacted on August 15, 1885, and last amended in 1992.

<sup>9</sup> See Section 2 of the Precious Metals and Second-Hand Metals Act, 2013

regarded as the ‘cash-for-gold’ trade). This trade was buoyed by an increase in the price of these commodities on the world market<sup>10</sup>. Under the Precious Metals Act it is an offence for persons engaged in the trading of second-hand items containing gold, silver, platinum, or any combination of these metals to do so without a license, and sets out the penalties for such conduct. A precious metals license allows those engaged in the pawnbroking trade to accept jewellery as a pawn (collateral) when conducting business.

20. The *Telecommunications Act* makes it an offence under Section 10 (d) to trade in any prescribed telecommunications or radio communications apparatus without a dealer’s license. This specifically governs those pawnbrokers who purchase used cell-phones or import cell-phones for retail.

### ***Product Retail***

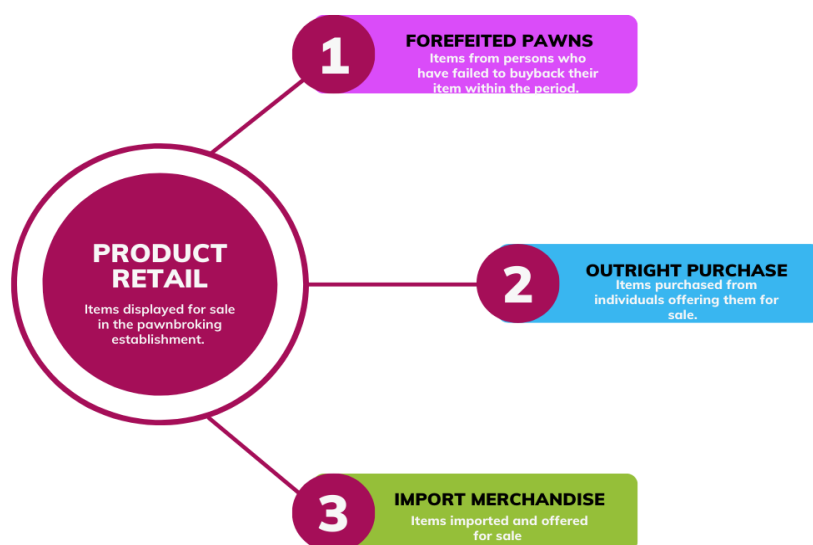
21. Concerning the product retail arm of retail pawnbroking: items are offered in the pawnbroking establishment for general sale. These items offered for sale can include jewellery, electronics, tools, and in some cases white goods<sup>11</sup> and furniture. Respondents<sup>12</sup> highlight that the product retail arm is regulated by two pieces of legislation: the Precious Metals Act and the Telecommunications Act.
22. Respondents identified three streams in which they receive inventory (**Figure 1**). Recall a pawnbroker can take ownership of an item used for collateral upon the borrower’s inability to repay or buy back the item – this is the first inventory stream. Additionally, a pawnbroker might purchase an item outright from a consumer seeking to offer an item for sale – this is different from pawning. Finally, pawnbrokers might import merchandise to retail in their establishments.

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<sup>10</sup> Admin, “Government to Implement New Legislation to Crack down on Criminal Activity Stemming from ‘Cash for Gold Trade,’” GIS, May 15, 2012, <https://gisbarbados.gov.bb/blog/government-to-implement-new-legislation-to-crack-down-on-criminal-activity-stemming-from-cash-for-gold-trade/>.

<sup>11</sup> White goods are large home appliances such as stoves, refrigerators, freezers, washing machines, tumble driers, dishwashers, and air conditioners. They were traditionally available only in white. See “White Goods - Definition and Meaning.” Market Business News, November 7, 2020. <https://marketbusinessnews.com/financial-glossary/white-goods-definition-meaning/>.

<sup>12</sup> Interviews with market players were conducted throughout the course of the investigation.



*Figure 1. Pawnbroking Product Retail*

23. These inventory streams result in the pawnbroking establishments carrying both pre-owned and new products for retail sale. This puts them squarely in competition with retailers and consignment shops, which offer similar items for retail sale. Parties to the transaction highlighted that on the retail side, they compete with consignment stores, major retailers, jewellers, duty-free shops, repair shops which offer repaired items for resale, and individuals who offer items for sale on social media.

### **The Relevant Geographic Market**

24. Competition agencies normally use a similar process to determine the geographic market where the product is or may be potentially supplied. The geographic market is the area in which (i) persons find it feasible to source an alternative product; and (ii) suppliers find it viable to supply the product or service in that particular area. The Commission generally defines the relevant geographic market by identifying the area over which the merged firm and its rivals currently supply, or could supply the product. The Commission also will consider the area to which buyers can or would practically turn to find alternative sources of supply.



25. In the relevant market for pawnbroking services, pawnbrokers disburse these monetary loans to persons residing within Barbados. It is unlikely that someone residing abroad would travel to Barbados for the purpose to acquire a pawn loan. Additionally, market participants have indicated in interviews that their clientele is not limited to persons who reside in the immediate vicinity of the pawnbroking establishment. Moreover, in the relevant market for the supply of product retail, the parties to the transaction retail a wide variety of items in different product lines to consumers who reside in Barbados. The Commission therefore concludes that the geographic market is Barbados.
26. The above assessment has led the Commission to conclude that the relevant market in this instant is as follows:
- a. The market for the supply of pawnbroking services in Barbados; and**
  - b. The market for the supply of product retail in Barbados.**

### **Competitive Assessment**

27. In its assessment of a merger, the Commission considers the impact the proposed transaction is likely to have on the relevant markets. The findings of an assessment of the potential impacts of a merger are highlighted and used to inform and guide the Commission's decision regarding the Merger Application.
28. In the application at instant, the Commission assessed the probable effects of the proposed transaction with respect to possible abuse of significant market power gained post-merger, or whether the merger is likely to create conditions that are conducive for collusion due to market concentration<sup>13</sup>.

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<sup>13</sup> The possibility of an abuse of a dominant position is one concern in a competitive assessment. Due to the concentration that results from a merger, it is possible that the reduced number of competitors can create incentives for the remaining competitors to collude.

29. Product retail and pawning can be considered complementary service offerings. The parties to the transaction compete in the main relevant market with other pawnbroking businesses, as identified by the parties themselves, and corroborated by the Barbados Police Service (BPS).
30. As a result, players in this market face considerable competitive pressure from a number of businesses that retail similar goods. The number of product sub-markets in product retail and the number of players operating in both the formal and informal sectors are too many to visually represent with data. However, the Commission is satisfied that the relevant market is highly competitive.

### **The Commission's View of Competition in the Market**

31. It was determined that the Applicants retail a wide range of new and used products. All market players highlighted that their products compete with a variety of entities that also retail both new and used products. In addition, the Applicants indicated that their retail inventory is determined largely by the items that customers pawn or offer for sale; and what new products are imported and offered for sale is influenced by customer tastes/demand. Notably, players in the reference market highlighted the competitive pressures from the informal economy – specifically social media e-commerce offerings – where users have access to a wide spectrum of products. Anecdotal evidence suggests that the recent entry of a player in the retail market made the retailing of some categories of second-hand goods unprofitable because the price of these second-hand goods could not compete with the new player's 'first-hand' equivalents.
32. The Commission also notes that the regulatory oversight that inheres to the second-hand precious metals market, the reporting obligations of players therein, and the associations with informal trade practices make this market uniquely structured. The Commission is also of the view that the sub-market of product retail is highly

competitive because of the substitutability of second-hand precious metals for new precious metals, coupled with the presence of a number of jewellery retailers.

33. With regard to the market for pawnbroking services, the Applicants compete in this relevant market with two other players. On the demand side consumers are free to use any item they choose to secure their monetary loan. There is however limited substitutability on the supply side given the licensing and reporting requirements for someone who wishes to offer loans on pawned jewellery. These requirements could present a barrier to entry. However, this barrier is removed for an entity that wishes to provide pawnbroking services for non-jewellery items.
34. Market participants indicated that they envision no competitive issues as a result of the merger. Competitors have however, anecdotally referred to the “deep pockets” of the acquiring party and the ways in which this allows that party to operate differently in the relevant market. This might manifest in the acquiring party’s ability to purchase more stock for customers or offer better loan rates for pawns.
35. Participants note that the market is relationship-driven and a considerable amount of business is done through repeat customers. It is therefore incumbent upon each establishment to focus on building relationships with the clientele to develop a loyal customer base. It is arguable that CashWiz’s financial strength places it in a better position to curate such relationships by continuously training its staff, which might prove to be a financial burden for other players provided there is a cost to such training.
36. The Applicants argued that the change in ownership will not affect competition in the market adversely due to low barriers to entry. The Commission holds the view that the attendant entry requirements are not insurmountable since all that is required to enter the market from a regulatory standpoint is a (i) pawnbroker’s license, (ii) precious metals dealer’s license, provided the entrant intends to trade in jewellery and (iii) a telecommunications dealer’s license if the entrant wishes to trade in any

prescribed telecommunications or radio communications apparatus. In addition, there is capacity for players in tangential sectors (*e.g.*, retail) to enter this market without the attendant entry requirements since they may very well have the capital, real estate and the staff to conduct business, and the customer network to market this new line of business.

### **Post – Merger Effects**

37. The Commission is of the view that the structure of the market is such that there are low barriers to entry, and historical precedent to indicate that entry into the market is likely and sufficient to constrain the market power of the merged entity.

### **Conclusion**

38. The Commission, pursuant to Section 20(5) of the Fair Competition Act CAP.326C has completed the analysis of the Merger Application submitted by CashWiz and iExchange.
39. The Commission has considered all of the information before it in order to determine the likely impact of the transaction on competition in the relevant market.
40. In so doing, and in accordance with Section 20 (7) (a) to (e) of the FCA, FCD considered the structure of the markets likely to be affected by the proposed transaction, the degree of control exercised by the enterprises, the availability of alternatives to the services provided by the Parties, the likely effect of the proposed merger on consumers and the economy, the actual and potential competition from other enterprises, and the likelihood of detriment to competition.

41. The following findings regarding the proposed transaction were made:
- **CashWiz and iExchange operate in the same relevant markets pertaining to the merger transaction in Barbados. Namely, the market for the supply of pawnbroking services in Barbados; and the market for the supply of product retail in Barbados.**
  - **There are low barriers to entry, historical precedent for entry of firms who have exerted competitive pressure.**
  - **The market structure of the sector is unlikely to result in the merged entity's ability to wield market power post-merger.**
42. In light of the foregoing, the Commission has resolved that the merger as currently structured and presented qualifies for approval under Section 20 of the FCA.