

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM116OCT24

In the large merger between:

Campobelo Investments, S.L.

Primary Acquiring Firm

And

Seidor Solutions, S.L. and Seidor Logistics, S.L.

Primary Target Firms

Panel:	I Valodia (Presiding Member) A Ndoni (Tribunal Member) G Budlender (Tribunal Member)
Heard on:	31 January 2025
Order issued on:	31 January 2025
Reasons Issued on:	25 February 2025

REASONS FOR DECISION

Introduction

- [1] On 31 January 2025, the Competition Tribunal (“Tribunal”) conditionally approved the large merger whereby Campobelo Investments, S.L. (“Campobelo”) intends to acquire 100% of the shares in Seidor Solutions, S.L. and Seidor Logistics S.L. (collectively referred to as the “Target Firms”). Post-merger, Campobelo will exercise sole control over the Target Firms.

Parties to the transaction and their activities

Primary acquiring firm

- [2] The primary acquiring firm Campobelo, a newly incorporated investment vehicle, is incorporated in accordance with the laws of Spain. Campobelo is ultimately controlled by the Carlyle Group Inc. (“Carlyle”). Carlyle is listed on the NASDAQ stock exchange and its shares are widely held. It is not controlled by any person

or firm.

- [3] Carlyle controls numerous firms with activities in South Africa, Of relevance to the proposed merger are portfolio companies controlled by funds managed by Carlyle, namely: [REDACTED]
- [4] All firms directly and indirectly controlled by Carlyle are referred to as the Acquiring Group.
- [5] Campobelo is an entity incorporated for purposes of the proposed merger without any economic activity. The Acquiring Group manages a portfolio of companies in various industries including information communications and technology ("ICT") amongst other industries. Of relevance to the assessment of the proposed merger is the Acquiring Group's activities in the ICT industry specifically in relation to information technology ("IT") services including consulting.²

Primary target firms

- [6] The Target Firms are private liability companies incorporated in accordance with the laws of Spain. The Target Firms are controlled by Seidor S.A., a firm also incorporated in terms of the laws of Spain.
- [7] In South Africa, the Target Firms control (i) Seidor South Africa (Pty) Ltd, (ii) Seidor Analytics (Pty) Ltd, (iii) Seidor One (Pty) Ltd and (iv) Seidor Networks (Pty) Ltd.
- [8] The Target Firms, and all the firms controlled by the Target Firms are collectively referred to as the "Target Group".
- [9] The Target Firms operate as IT consulting firms primarily active in (i) the creation, development, commercialization, installation, launching and maintenance of

¹ Paragraph 7.2 of the Joint Competitiveness Report submitted by the merging parties.

² IT consulting services refers to services aimed to help organisations utilise information technology and digital assets to optimally achieve business goals.

computer software, programming and technical assistance, (ii) the commercialization, installation, repair and maintenance of computer hardware and auxiliary materials and (iii) the provision of IT services, including consulting services.

- [10] In South Africa, the Target Group provides IT consulting services including: (i) business intelligence consulting (“BI”) and products which are mostly Microsoft and SAP related, (ii) end-to-end SAP enterprise resource planning (“ERP”) services which is software which helps businesses manage and automate their core processes, and (iii) IP and managed service provider related services and support to SAP and non-SP clients. The Target Firms do not develop the IT solutions offered by IT vendors but connect customers with IT software providers by availing a portfolio of IT services that integrates the offerings.

Description of the transaction and rationale

- [11] In terms of the proposed merger, Campobelo intends to acquire 100% of the shares in the Target Firms. Upon implementation of the proposed merger, Campobelo will exercise sole control over the Target Firms.

- [12] In relation to the rationale for the proposed merger, the Acquiring Group views the proposed merger as an investment opportunity. [REDACTED]

[REDACTED]

Competition assessment

- [13] The Competition Commission (“Commission”) considered the activities of the merging parties and found that the proposed merger results in a horizontal overlap as both the merging parties are active in the provision of IT consulting services in South Africa. The Commission thus assessed the overlap in the national market for the provision of IT consulting services.

³ Paragraph 5 of the merging parties joint competitiveness report submitted together with the merger filing.

Horizontal competition assessment in the national market for the provision of IT consulting services

[14] The Commission noted that market share information is not readily available and on this basis relied on the merging parties' market share estimates.

[15] The Commission found that post-merger the merged entity will have an estimated market share of approximately [REDACTED] with an accretion of [REDACTED] in the national market for the provision of IT consulting services. The Commission further noted that the market for the provision of IT consulting services is fragmented with several players active in the market including Ernst & Young, NTT Data, Minsait, Deloitte, Accenture, Price Waterhouse Coopers, Kyndryl, Bain, Concentrix, McKinsey, KPMG, WNS, Tech Mahindra, and IBM Consulting.⁴

[16] Based on the above, the Commission found that the proposed merger is unlikely to result in the substantial prevention or lessening of competition in the provision of IT consulting services in South Africa.

Vertical assessment

[17] The Commission further found that the proposed merger results in a vertical overlap in that the Target Firms integrate the Acquiring Group's enterprise content management solutions into its broader IT services. [REDACTED]

[18] The Commission found that the vertical overlap arises in the European Union as [REDACTED] is not active in South Africa. On this basis, the Commission did not assess the vertical overlap.

[19] Based on the above, we are of the view that the proposed merger is unlikely to result in the substantial prevention or lessening of competition in the relevant market.

⁴ Paragraph 23 of the Commission's Recommendation.

⁵ Paragraph 17 of the Commission's Recommendation.

Public interest

Employment

[20] The merging parties submitted that *“there will be no negative effect on employment as a result of the proposed transaction”*.⁶

[21] The merging parties submit that the Acquiring Group does not have employees in South Africa. The employees of the Target Firms did not raise any concerns.⁷

[22] Considering the above, we are of the view that the proposed merger is unlikely to have a negative impact on employment.

Promotion of a greater spread of ownership

[23] Neither the Acquiring Group nor the Target Firms have any shareholding held by historically disadvantaged persons (“HDPs”).

[24] In light of the above, the Commission requested the merging parties to tender remedies that are responsive to section 12A(3)(e) of the Competition Act 89 of 1998, as amended (the “Act”) or equally weighty remedies that countervail the lack of promotion of ownership.⁸ In response, the merging parties tendered a condition related to the establishment of a bursary scheme to the value of [REDACTED] [REDACTED] for to the benefit of HDP candidates for training and development in the IT sector. The bursary scheme aims to target HDP candidates who are enrolled at historically black universities (“HBUs”) (“Bursary Scheme Commitment”).⁹

[25] At the hearing held on 31 January 2025, we requested the Commission and merging parties to make submissions related to the commitment agreed upon, as well as the public interest issues related to the proposed merger.¹⁰

⁶ Schedules to Form CC4(1) submitted by the merging parties.

⁷ Paragraph 27 of the Commission’s Recommendation.

⁸ Paragraph 29 of the Commission’s Recommendation.

⁹ Historically black university in South Africa includes universities such as University of Venda; University of Fort Hare; University of Limpopo; University of Western Cape and/or Walter Sisulu University.

¹⁰ Hearing Transcript dated 31 January 2025 page 1, lines 14 - 18.

[26] The Commission submitted that the proposed merger was not responsive to section 12A(3)(e) of the Act given that neither party had any shareholding by HDPs.¹¹

[27] The merging parties submitted that they did not concede that the proposed merger is a transaction that warrants any conditions and further did not acknowledge that there was a public interest effect which required to be addressed.¹² The merging parties further submitted that the proposed merger is a global transaction and that the Bursary Scheme Commitment was tendered in order to reach an agreement with the Commission to gain an expedited clearance by the end of 2024.¹³ The merging parties view the Bursary Scheme Commitment as a condition which would result in public interest benefits and would facilitate the participation of HDPs in the IT industry in South Africa.¹⁴

[28] We enquired whether the Commission is of the view that merger transactions should be justifiable on public interest grounds in instances where a merger transaction is neutral and does not itself trigger negative consequences.¹⁵ The Commission submitted that the proposed merger is not neutral from a public interest perspective and that by its interpretation section 12A(3)(e) triggers a positive obligation.¹⁶ The Commission submitted that in terms of its interpretation of section 12A(3)(e), informed by the preamble of the Act, a remedy is required in instances where a merger does not promote ownership by workers or HDPs.¹⁷ The Commission additionally submitted that the proposed merger is an international transaction where there is a limited nexus to South Africa and in this instance, the Commission did not insist on primary ownership remedies and accepted the Bursary Scheme Commitment tendered by the merging parties as an alternative remedy which falls under section 12A(3)(c) of the Act.¹⁸

¹¹ Hearing Transcript dated 31 January 2025 page 2, lines 9 - 13.

¹² Hearing Transcript dated 31 January 2025 page 3, lines 16 – 19.

¹³ Hearing Transcript dated 31 January 2025 page 4, lines 16 - 21 and page 5, lines 1 - 5.

¹⁴ Hearing Transcript dated 31 January 2025 page 4, lines 5 – 10 and page 29, lines 12 -14.

¹⁵ Hearing Transcript dated 31 January 2025 page 5, lines 7 - 11.

¹⁶ Hearing Transcript dated 31 January 2025 page 5, lines 16 – 17, page 5, lines 17 - 20 and page 6, lines 5 - 9.

¹⁷ Hearing Transcript dated 31 January 2025 page 6, lines 2 – 3 and page 10, lines 4 - 6.

¹⁸ The Commission further explained that the remedy falls under section 12A(3)(c) because the Bursary Scheme Commitment will result in skills development that will equip HDPs to participate in the market. Hearing Transcript dated 31 January 2025 page 8, lines 1 – 8.

[29] In response to the Commission's submissions, the merging parties submitted that the proposed merger generates positive public interest benefits when considering the holistic nature of the public interest assessment.¹⁹ The merging parties submitted further that the proposed merger has a positive public interest outcome particularly in relation to employment as the proposed merger would result in foreign direct investment in South Africa, facilitate substantial financial support and better management which is likely to improve long-term employment prospects.²⁰

[30] We further enquired whether the Commission viewed the [REDACTED] value of the Bursary Scheme Commitment as proportionate to a remedy which would have more directly addressed ownership and shareholding by HDPs.²¹ The Commission submitted that it views the [REDACTED] Bursary Scheme Commitment as proportionate as it provides funding for a significant number of tertiary students.

[31] We note that the merging parties and the Commission have reached an agreement in relation to the Bursary Scheme Commitment and see no reason to not approve the proposed merger subject to the aforementioned condition.

Conclusion

[32] For the reasons set out above, we are satisfied that the proposed merger is unlikely to substantially prevent or lessen competition in any relevant market. Furthermore, the Commission and the merging parties have reached agreement on any public interest concerns.

[33] We accordingly approved the merger on the basis of the conditions in **Annexure A** to our order dated 31 January 2025.

Signed by Imraan Valodia
Signed at: 2025-02-25 13:51:42 +02:00
Reason: Witnessing Imraan Valodia

Prof. Imraan Valodia
Ms Andiswa Ndoni and Adv Geoff Budlender, SC.

25 February 2025
Date

¹⁹ Hearing Transcript dated 31 January 2025 page 12, lines 1 - 4.

²⁰ Hearing Transcript dated 31 January 2025 page 12, lines 18 – 20 and page 13, lines 1 - 3.

²¹ Hearing Transcript dated 31 January 2025 page 24, lines 5 - 21.

Tribunal Case Manager:	Tarryn Sampson
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For the Commission:	Nonhlanhla Msiza and Wiri Gumbie