**COMPETITION TRIBUNAL OF SOUTH AFRICA**

**CASE NO: 70/LM/JUN08**

In the matter between:

**HEWLETT PACKARD COMPANY** Acquiring Firm

**and**

**ELECTRONIC DATA SYSTEMS CORPORATION** Target firms

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Panel : N Manoim (Presiding Member), Y Carrim (Tribunal Member), and U Bhoola (Tribunal Member)

Heard on : 14 August 2008

Order issued on : 14 August 2008

Reasons issued on : 9 September 2008

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## REASONS FOR DECISION

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**APPROVAL**

1. On 14 August 2008 the Tribunal approved the international merger between Hewlett Packard Company ("HP") and Electronic Data Systems Corporation ("EDS").

**THE PARTIES**

2. The primary acquiring firm HP, a corporation listed on the New York and Pacific Stock Exchanges, controls several subsidiaries worldwide. In South Africa HP controls Hewlett-Packard South Africa Pty Ltd ("HPSA"). HP is not controlled by any single shareholder. The primary target firm is EDS, a company listed on the New York and London Stock Exchanges, and which has several subsidiaries worldwide. In South Africa EDS controls EDS Enterprise Solutions Africa (Pty) Ltd ("EDS Enterprise Solutions"), Atraxis Africa (Pty) Ltd ("Atraxis"); and EDS South Africa (Pty) Ltd) ("EDS SA"). EDS is also not controlled by any single shareholder.

**THE TRANSACTION AND RATIONALE**

3. The mechanics of this transaction which takes place in the United States, do not concern us, but the relevant fact is that following various stages of the deal HP will acquire the business of EDS and thus for our purposes be considered to control it. This deal has been notified and won approval from U.S antitrust authorities on June 30, 2008, and the European Commission approval on or about end of July 2008.

4. According to HP this transaction offers an opportunity for it to gain a significant presence in other IT services segments.

**RELEVANT PRODUCT MARKET**

5. The merging parties both offer IT services in South Africa. This transaction leads to a horizontal overlap in consulting services development and integration services, as well as in Information Technology ("IT") management services.

6. There is also a vertical relationship between the merging parties in that EDS SA procured certain services for its customers (including among other things; server maintenance training, replacement of cabling and replacement of motherboard) from HP resellers and distributors.

## RELEVANT GEOGRAPHIC MARKET

7. The parties operate within a global market for the provision of the relevant products and services. The Commission has analysed the merger on the basis that the market for the provision of these services is national. We have no reason to question this assessment in the present transaction. The parties had argued that the market was international but have supplied market share figures for both an international and national market.

## COMPETITION EVALUATION

*Horizontal analysis*

8. According to the parties, premerger, HP has approximately 2.4% and EDS has 3.2% market shares in the worldwide broad IT services market. In addition, they will continue to face effective competition from over 150 competitors in this market post merger; the largest competitors include, IBM, Fujitsu, Accenture, Computer Sciences Corporation and Lockheed Martin.

9. In South Africa, HPSA is said to have 2.2% and EDS SA, 1.3% market shares pre-merger, in the IT services market. Other large competitors include; Business Connexion, Dimension Data, Siemens Communications, Arivia.kom and GijimaAst.

10. In each of the identified markets being: consulting services, development and integration services, and IT management services, each of the parties has less than 5% of the market, and again faces effective competition from other players.

*Vertical analysis*

11. The value of the services procured by EDS SA from HP amounts to less than 1% of EDS's annual turnover and less than 1% of HP's annual turnover in the previous financial year in South Africa. Therefore, no foreclosure concerns arise.

## CONCLUSION

12. Given the low market shares the merger will not lead to any concentration in the affected overlap markets, whilst the vertical relationship is too insignificant to alter the merged firms' incentives. We conclude that the merger will not result in any substantial lessening or prevention of competition in any of the relevant markets. Accordingly, we approve the merger without conditions.

13. There are no public interest issues.

________________ 9 September 2008

N Manoim Date

Tribunal Member

Y Carrim and U Bhoola concur in the judgment of N Manoim

For the merging parties : Bowman Gilfillan

For the Commission : K. Mahlakoana

(Mergers and Acquisitions)

Tribunal Researcher: L Xaba