
ANNEXURE A

CC Case Number: 2015Jun0323

In the intermediate merger between:

NOKIA CORPORATION

Primary acquiring firm

and

ALCATEL-LUCENT SOCIÉTÉ ANONYME

Primary target firm

CONDITIONS (Public Version)

1. DEFINITIONS

1.1 In this document the following expressions bear the meanings assigned to them below and related expressions bear corresponding meanings--

1.1.1 “**Act**” means the Competition Act, No. 89 of 1998 (as amended);

1.1.2 “**Affected Employees**” mean no more than 60 employees identified and employed by the merged entity falling within Grade E, Grade D and Grade C of the Paterson Grading System as set out in Annexure A;

1.1.3 “**Africom**” means Business Venture Investments No. 1125 Proprietary Limited;

1.1.4 “**Alcatel-Lucent**” means Alcatel-Lucent Société Anonyme, a public company duly incorporated in France, with its principal place of business at 148/152 route de la Reine, 92100 Boulogne-Billancourt, France;

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- 1.1.5 “Alcatel-Lucent South Africa”** means Alcatel-Lucent Proprietary Limited;
- 1.1.6 “Approval Date”** means the date referred to in the Competition Commission’s Merger Clearance Certificate (Form CC15);
- 1.1.7 “BEE Shareholders”** means Sekunjalo, Africom and KTI collectively¹;
- 1.1.8 “Business Days”** mean any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;
- 1.1.9 “Clearance Date”** means the date referred to in the Commission’s Merger Clearance Certificate (Form CC15);
- 1.1.10 “Conditions”** means the employment conditions set out in paragraph 3 below;
- 1.1.11 “Condition Period”** means the period commencing on the Implementation Date and ending on three years post the Implementation Date;
- 1.1.12 “Commission”** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act;
- 1.1.13 “Competition Tribunal”** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Act;
- 1.1.14 “Competition Appeal Court”** means the Competition Appeal Court of South Africa, a court established in terms of section 36 of the Act;
- 1.1.15 “Implementation Date”** means the date, occurring after the Approval Date, on which the merger is implemented by the merging parties;
- 1.1.16 “Integration Date”** means the date, occurring after the Approval Date (and Implementation Date) on which the merging parties will integrate their businesses in South Africa;

¹ Since the date of the conditional approval and the filing of the request for consideration, KTI has transferred its [...] % shareholding in ALU South Africa to Baitsepe Proprietary Limited (“**Baitsepe**”). Baitsepe is owned by the women of the Kunene family in five equal shares (the Kunene family are the owners of KTI).

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- 1.1.17 “KTI”** means Kunene Technology Investments Proprietary Limited;
- 1.1.18 “Labour Relations Act”** means the Labour Relations Act, No. 66 of 1995 (as amended);
- 1.1.19 “Merger”** means the acquisition by Nokia of the issued share capital of Alcatel-Lucent, and to the extent possible, the entire issued ordinary share capital of Alcatel-Lucent, to be effected by way of a public tender for offers;
- 1.1.20 “Merged Entity”** means the legal entity to be established pursuant to the successful implementation of the Merger;
- 1.1.21 “Merging Parties”** mean, collectively, Nokia and Alcatel-Lucent;
- 1.1.22 “Nokia”** means Nokia Corporation, a public company duly incorporated in Finland, with its principal place of business at Karaportti 3 P.O Box 226, FI-00045 Nokia Group, Finland;
- 1.1.23 “Nokia South Africa”** means Nokia Solutions and Networks Holdings Proprietary Limited;
- 1.1.24 “Paterson Grading System”** refers to the job grading system set out in Annexure A;
- 1.1.25 “Sekunjalo”** means Business Venture Investments No. 1126 Proprietary Limited;
- 1.1.26 “Shareholders’ Agreements”** refers to –
- 1.1.26.1** the shareholders’ agreement concerning Nokia Siemens Networks RSA Proprietary Limited (now Nokia Solutions and Networks Holdings Proprietary Limited) entered into between Nokia Siemens Networks BV (now Nokia Solutions and Networks B.V.), Nokia Siemens Networks RSA Proprietary Limited, Africom and Sekunjalo; and
 - 1.1.26.2** the shareholders’ agreement concerning Alcatel Lucent South Africa entered into between Alcatel-Lucent, Alcatel-Lucent N.V, KTI and Kunene Bros. Holdings Proprietary Limited.

2. CONDITIONS TO THE APPROVAL OF THE MERGER

2.1 Employment Conditions

2.1.1 The Merged Entity shall limit the number of retrenchments of Affected Employees arising as a result of the proposed merger to 60.

2.1.2 For the sake of clarity, retrenchments do not include (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; and (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.

2.1.3 The Affected Employees shall be the first to be offered employment within Nokia in South Africa, for which they are suitably qualified, when vacant positions become available and this will occur before the vacant positions are advertised externally. This offer to Affected Employees will continue for a period of 12 (twelve) months after the expiry of the moratorium referred to in paragraph 2.1.1 of these Conditions. Employment of the Affected Employees will be subject to the Affected Employees meeting the standard requirements for employment in such vacant positions.

2.2 Effect of the Merger on BEE

2.2.1 Nokia undertakes not to integrate its South African subsidiaries with Alcatel-Lucent's South African subsidiaries in a manner that results in a loss of value for the BEE Shareholders. For the avoidance of doubt, this does not prevent Nokia from integrating or otherwise combining its South African subsidiaries with those of Alcatel-Lucent into fewer or one entity/ies, provided that Nokia complies with all South African legislation and regulations applicable to BEE shareholdings as well as the Shareholders' Agreements entered into with the respective BEE Shareholders, or by common agreement between Nokia and the BEE Shareholders.

2.2.2 For the purpose of complying with paragraph 2.2.1 above, the valuation of the relevant assets and shareholdings of the respective BEE shareholders will be calculated at the time of integration of the South African subsidiaries and in accordance with clause 10 of the Shareholder's Agreement pertaining to Sekunjalo and Africom and clauses 16 to 20 in respect to the Shareholder's Agreement pertaining to KTI.

3. MONITORING OF COMPLIANCE WITH THE CONDITIONS

3.1 An apparent breach by the Merged Entity of any of the Conditions will be dealt with in terms of Rule 39 of the Rules for the Conduct of Proceedings in the Competition Commission.

3.2 Employment Conditions

- 3.2.1 The Merging Parties or its South African subsidiaries shall circulate a copy of the Conditions to all employees and their respective employee representatives within 7 (seven) business days of the Approval Date.
- 3.2.2 As proof of compliance thereof, the Merging Parties or Nokia South Africa shall within 7 (seven) business days of circulating the Conditions, provide the Commission with an affidavit by a senior representative attesting to the circulation of the Conditions and attach a copy of the notice sent to the employees and employee representatives.
- 3.2.3 Nokia shall inform the Commission in writing of the Implementation Date, within 7 (seven) business days of it becoming effective.
- 3.2.4 The Merged Entity shall submit a report on an annual basis confirming compliance with the Conditions set out in paragraph 2.1. The report shall indicate the number of retrenchments and the reasons for the retrenchments. The first report shall be submitted on the anniversary of the Implementation Date. The remaining two reports will each be submitted on the second and third anniversary of the Implementation Date, respectively.
- 3.2.5 Any employee who believes that his/her employment with the merging parties has been terminated in contravention of the Conditions may approach the Commission with his or her complaint.

3.3 BEE Conditions

- 3.3.1 Within 30 Business Days of Nokia integrating the businesses, it shall submit a report to the Commission confirming compliance with the Conditions set out in paragraph 2.2 above. The report shall indicate the changes in BEE shareholding, including any adjustments made to the BEE shareholdings, and the manner in which the adjustments to the BEE shareholdings were undertaken. The report shall be accompanied by an affidavit confirming the accuracy of the information contained in the report. The affidavit must be duly attested to by a senior official of the Merged Entity.
- 3.3.2 All correspondence in relation to these Conditions shall be submitted to the following email address: mergerconditions@compcom.co.za.
- 3.4 The merging parties shall be entitled, upon good cause shown, to apply to the Tribunal for the waiver, relaxation, modification and/or substitution of one or more of the conditions.

4. TERMINATION OF THE CONDITIONS

- 4.1 The Conditions will automatically terminate upon fulfilment by the Merged Entity of its obligations contained herein, subject to the written approval of the Commission.



Annexure A

F Band – Strategic Intent

Policy making decisions (Top Management)

Top-level management give the overall direction of the firm. Top management decides on policy in all major areas of operation (finance, production, marketing).

E Band – Strategy Execution

Programming Decisions/Long Term Strategy/Strategy Execution (Senior or General Management)

Senior management decides on organisational structure and the overall programme for major functions.

D Band – Tactical management

Interpretive/Probabilistic Decisions (Middle Management/Professional)

Middle management decides on systems and procedures, rules and regulations.

C Band – Advanced operational

Determined/Process/System Decisions (skilled employees)

B Band – Operational

Operational/Sub-system (Semi-skilled Employees)

A Band – Primary

Defined Decisions (Basic skills)

Basic skills regarding the elements of an operation.