



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: LM174Feb24

In the matter between:

VCAP1 Alliances (Pty) Ltd

**Primary Acquiring Firm**

And

Utilities World (Pty) Ltd, Prepaid Utilities World CC,  
Softline Software CC, Winciki Investment (Pty) Ltd  
and Intelli Meter (Pty) Ltd

**Primary Target Firm**

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Panel	:	T Vilakazi (Presiding Member)
	:	G Budlender (Tribunal Member)
	:	A Ndoni (Tribunal Member)
Heard on	:	17 April 2024
Order issued on	:	18 April 2024
Reasons issued on	:	03 May 2024

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### REASONS FOR DECISION

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#### Introduction

[1] On 18 April 2024, the Competition Tribunal (“Tribunal”) conditionally approved the transaction in which VCAP1 Alliances (Pty) Ltd (“VCAP1”) intends to acquire the following five interrelated firms: (i) Utilities World (Pty) Ltd<sup>1</sup>, (ii) Prepaid Utilities World CC<sup>2</sup>, (iii) Softline Software CC<sup>3</sup>, (iv) Winciki Investment (Pty) Ltd and (v) Intelli Meter (Pty) Ltd (hereinafter, the “Prepaid Utilities World Group”).

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<sup>1</sup>Utilities World is controlled by [REDACTED], a private individual ([REDACTED]) and the remaining non-controlling shareholders are Blue Label Telecoms Ltd ([REDACTED]) and [REDACTED], a private individual ([REDACTED]).

<sup>2</sup> Prepaid World, Winciki and Intelli Meter are [REDACTED] owned by [REDACTED].

<sup>3</sup> Softline Software is [REDACTED] owned by [REDACTED].

## **The parties and transaction**

- [2] VCAP1 is a special purpose vehicle entity, set up to facilitate the acquisition of Switchone Proprietary Limited ("Switchone") and Virtual Payments Solutions Proprietary Limited ("VPS"). Switchone is a private company that is a technology enabled Third Party Payment Processor. VPS is a private company with a core business that involves the repackaging, bundling and on-selling of airtime and data through multiple channels. VPS also offers value-added services ("VAS") which enable its customers to purchase airtime and data, prepaid electricity tokens, and lotto and Powerball tickets.
- [3] The core of the Prepaid Utilities World Group technology offering is the tokenisation and distribution of electricity tokens in the prepaid environment as well as the provision of revenue enhancement systems for both prepaid and postpaid utility customers. The focus is on smaller municipalities and to a lesser extent metropolitan regions and private utilities.
- [4] Prepaid World has developed and owns the intellectual property which it provides to Utilities World. Prepaid World has also developed and patented its own smart meter hardware solution that is currently being deployed in various municipalities and private utilities throughout the South Africa. Softline Software focuses on developing the software used by Prepaid World.
- [5] Winciki holds an import and export license relating to the importation of components required to build and assemble Prepaid World's smart meters. Winciki has never traded and serves no commercial purpose other than to hold the licenses.
- [6] Intelli Meter owns intellectual property relating to the group's smart meter and vending solution, as well as the associated trademarks. Intelli Meter has never traded and serves no commercial purpose other than holding the intellectual property.

## Indivisibility of transaction

[7] The Prepaid Utilities World Group comprises inter-related and codependent businesses that operate in the prepaid and postpaid utilities industry. All the businesses except Softline Software share a common shareholder, [REDACTED]. Softline Software is owned by [REDACTED], and as such does not share a common shareholder with the other businesses.

[8] The transaction is appropriately characterised as a single transaction, the constituent parts of which are both legally and factually indivisible.

## Competition Assessment

### *Rationale*

[9] The proposed transaction will enable VCAP1 to diversify its portfolio of offerings as it will acquire businesses that complement its current product offering. The combination of the offerings of Prepaid Utilities World Group with Switchone will result in a broader product basket such that the merged entity will be able to offer end-to-end solutions.

[10] [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

### *Overlaps*

[11] Prepaid Utilities World Group is active in prepaid electricity token generation on behalf of municipalities and private utilities. In addition, it reconciles, and on-remits bill payments received from end customers through distributors, to municipalities and private utilities. Prepaid electricity tokens are also generated on behalf of

Eskom directly; however, Prepaid Utilities World is not currently generating any electricity tokens for Eskom.

[12] VCAP1, through VPS, is active in the distribution of prepaid electricity tokens. However, this forms a [REDACTED] part of VPS' business ([REDACTED]). In its investigation, the Competition Commission ("Commission") noted that VCAP1 through Switchone plans to introduce an e-commerce platform which will enable distribution of prepaid electricity tokens and collect bill payments.

[13] We are satisfied based on the above that the merging parties operate at different levels of the value chain and that there is no horizontal overlap in their activities.

[14] We considered the Commission's assessment that there is a vertical overlap in the activities of the merging parties. Prepaid Utilities World Group is active at the upstream level for the generation of prepaid electricity tokens and associated vending, bill payment and revenue enhancement services to municipalities and private utilities. VCAP1, through VPS, is active [REDACTED] in the distribution of prepaid electricity tokens to end customers at retail points of sale as well as the collection of bill payments from end customers at retail points of sale. [REDACTED]

[REDACTED] and as such the vertical overlap was assessed.

*Relevant markets*

[15] The following markets were considered by the Commission in assessing the effects of the proposed transaction:

15.1 The upstream market for prepaid electricity token generation and associated bill payment services nationally, and

15.2 The downstream market for the distribution of prepaid electricity tokens and collection of payment at retail points of sale and e-commerce platforms nationally.

*Input foreclosure*

[16] Prepaid Utilities World Group currently distributes prepaid electricity tokens through EasyPay and Cigicell only. We are satisfied with the Commission's findings that at the upstream level, approximately 55% of prepaid electricity tokens are generated by Eskom. Prepaid Utilities World Group is currently not contracted to generate tokens for Eskom. The remaining 45% are generated through municipalities including private utilities. It was also found that Prepaid Utilities World currently generates prepaid electricity tokens for ██████████ out of a total of 257 municipalities nationally. Other firms active in this market include Cigicell (22 municipalities), Contour (11 municipalities), Landis + Gyr (8 municipalities), Ontec (25 municipalities), Spectrum Utility Management (3 municipalities), Conlog, EasyPay, Nyitis Consulting, Ice Cloud SA Operations, Ntlangani Group, Power Metering Africa, Sandulela Technology and Africa Utility Solutions, amongst others.

[17] EasyPay submitted a concern to the Commission, stating that the merger is likely to place the merged entity in a position to block EasyPay from continuing to source prepaid electricity tokens and bill payment services in respect of certain municipalities for downstream distribution. According to EasyPay, this is likely to negatively impact end consumers as EasyPay has a very wide retail distribution footprint (90 000 points of service) particularly in the informal sector. EasyPay submitted that a remedy that prohibits the merging parties from limiting access to the prepaid electricity and bill payment product sourced from its municipal suppliers to other industry players (its competitors) is likely to address its concerns.

[18] In response, the merging parties submitted that this concern is in the downstream market where EasyPay and Cigicell are the two largest players accounting for

70% to 80% of the market. Both firms have a vast network of distribution points (mainly retail points of sale). Further, EasyPay and Cigicell have established relationships with large national retail chains, banks and entities that serve many informal businesses. [REDACTED]

[REDACTED]. Post-merger, the merging parties will develop an e-commerce platform, however, for retail points of sale distribution, they will still require the services of firms such as EasyPay and Cigicell.

[19] We are of the view that the merging parties are unlikely to have the ability to foreclose EasyPay due to the presence of numerous upstream suppliers of prepaid electricity token generation services and given their dependence on EasyPay and Cigicell for downstream distribution.

[20] Based on the number of firms active in this market as well as the numerous municipalities served by EasyPay and Cigicell, we agree with the Commission's view that the merging parties are unlikely to have the ability or incentive to foreclose EasyPay and Cigicell in the downstream market for distributing prepaid electricity tokens and collecting bill payment services.

#### *Customer foreclosure*

[21] VCAP1's market share in distributing prepaid electricity tokens and collecting bill payments in the downstream market is approximately [REDACTED] based on 2023 revenues. Given VCAP1's [REDACTED] presence in this market, we find that the merger is unlikely to result in customer foreclosure concerns.

#### *Conclusion*

[22] We find that the merger is unlikely to result in a substantial prevention or lessening of competition in any market.

## Public Interest

[23] No employment concerns were raised.

*Promotion of a greater spread of ownership, to increase the levels of ownership by HDPs and workers in firms in the market.*

[24] VCAP1 has HDP ownership of [REDACTED]. The HDP ownership in the Target Firms is held as follows: [REDACTED] in Utilities World (based on [REDACTED] shareholding in Utilities World) and [REDACTED] in each of Prepaid Utilities World, Softline Software, Intelli Meter and Winciki. Post-merger, the HDP ownership in the Target Firms will be reduced to [REDACTED].

[25] To address the promotion of a greater spread of ownership, the merging parties proposed to implement an Employee Share Ownership Programme (ESOP) of [REDACTED], for the benefit of all employees of the merged entity which includes VCAP1 and its subsidiaries, VPS and Switchone as well as each of Utilities World, Prepaid World, Winciki, Intelli Meter and Softline Software. There are currently a total of [REDACTED] employees at VPS and Switchone, [REDACTED] of which are HDPs, [REDACTED] are female and [REDACTED] are youth (younger than 35 years). Prepaid Utilities World Group has a total of [REDACTED] employees, [REDACTED] of which are HDPs, [REDACTED] are female and [REDACTED] are youth. The Commission is of the view that the introduction of an ESOP of [REDACTED] at the merged entity remedies the HDP ownership concerns arising and justifies the merger on public interest grounds.

[26] In terms of the remedy - [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

## Conclusion

[27] The Tribunal approves the proposed transaction subject to the conditions set out in **Annexure A**.

Signed by: Thando Vilakazi  
Signed at: 2024-05-03 13:44:29 +02:00  
Reason: Witnessing Thando Vilakazi

03/05/24

*Thando Vilakazi*

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**Presiding Member**  
**Prof. Thando Vilakazi**

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**Date**

**Concurring: Ms Andiswa Ndoni and Adv. Geoff Budlender**

Tribunal Case Manager: Princess Ka-Siboto

For the Merger Parties: Dudu Mogapi and Mark Garden of Webber  
Wentzel

For the Competition

Commission: Raksha Darji and Grashum Mutizwa



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**ANNEXURE A**  
**IN THE LARGE MERGER BETWEEN:**  
**VCAP1 ALLIANCES PROPRIETARY LIMITED**  
**AND**  
**UTILITIES WORLD PROPRIETARY LIMITED, PREPAID UTILITIES WORLD CC,**  
**SOFTLINE**  
**SOFTWARE CC, WINCIKI INVESTMENTS PROPRIETARY LIMITED AND INTELLI**  
**METER**  
**PROPRIETARY LIMITED**  
**CASE NUMBER: LM174Feb24**

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**1. DEFINITIONS**

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

- 1.1 **"Acquiring Firm"** means VCAP1 Alliances Proprietary Limited;
- 1.2 **"Act"** means the Competition Act No. 89 of 1998, as amended;
- 1.3 **"Approval Date"** means the date referred to on the Tribunal's merger clearance certificate (Notice CT 10), being the date on which the Merger is approved in terms of the Competition Act;
- 1.4 **"Commission"** means the Competition Commission of South Africa;
- 1.5 **"Commission Rules"** means the Rules for the Conduct of Proceedings in the Commission
- 1.6 **"Conditions"** means the merger conditions included in this Annexure A;
- 1.7 **"Days"** means any day that is not a Saturday, Sunday, or public holiday in South Africa;
- 1.8 **"ESOP"** means the Employee Share Ownership Programme to be established pursuant to these Conditions;

- 1.9 **"ESOP Establishment Period"** means [REDACTED] months from the Implementation Date;
- 1.10 **"HDPs"** means historically disadvantaged persons as defined in section 3(2) of the Act;
- 1.11 **"Implementation Date"** means the date on which the Merger is implemented by the Merging Parties;
- 1.12 **"Merger"** means the proposed acquisition by the Acquiring Firm of 74.9% of the issued shares in Utilities World Proprietary Limited, the assets and liabilities, contracts and intellectual property of Prepaid Utilities World CC and Softline Software CC, 100% of the issued shares in Winciki Investments Proprietary Limited, and the intellectual property of Intelli Meter Proprietary Limited, as notified to the Commission under Case No. 2024Feb0007;
- 1.13 **"Merged Entity"** means the Target Firms subject to the control of the Acquiring Firm following the Implementation Date;
- 1.14 **"Merging Parties"** means the Acquiring Firm and the Target Firms;
- 1.15 **"South Africa"** means the Republic of South Africa;
- 1.16 **"Target Firms"** means collectively Utilities World Proprietary Limited, Prepaid Utilities World CC, Softline Software CC, Winciki Investments Proprietary Limited and Intelli Meter Proprietary Limited;
- 1.17 **"Tribunal"** means the Competition Tribunal of South Africa;
- 1.18 **"Tribunal Rules"** means the Rules for the Conduct of Proceedings in the Tribunal;
- 1.19 **"Qualifying Workers"** means Workers employed by the Target Firms, the Acquiring Firm, and subsidiaries of the Acquiring Firm, which include Virtual Payment Solutions Proprietary Limited and Switchone Proprietary Limited being individuals who have been permanent employees of the aforementioned firms for at least twelve months; and

1.20 **"Worker"** means an employee as defined in the Labour Relations Act 66 of 1995 (as amended) and, in the context of ownership, refers to ownership by a broad base of Workers.

## **2 ESTABLISHMENT OF THE ESOP**

2.1 By the end of the ESOP Establishment Period, the Acquiring Firm shall establish the ESOP for the benefit of Qualifying Workers. The ESOP shall hold [REDACTED] of the issued shares. in the Acquiring Firm, in accordance with the design principles set out in Annexure B.

## **3 MONITORING**

3.1 Within 5 (five) Days after the Implementation Date, the Merged Entity shall notify the Commission in writing of the Implementation Date.

3.2 Within 10 (ten) Days of the Implementation Date, the Merged Entity shall circulate a non-confidential version of the Conditions to its employees. As proof of compliance herewith, the Merged Entity shall within 5 (five) Days of circulating the Conditions, submit to the Commission an affidavit by a senior official, attesting to such compliance.

3.3 The Merged Entity shall submit a compliance report within 14 (fifteen) Days after the establishment of the ESOP. The report shall be accompanied by an affidavit from a director of the Acquiring Firm confirming the accuracy of the information contained in the report.

3.4 The Commission may request any additional information from the Merging Parties, which the Commission may, from time to time, deem necessary for purposes of monitoring the extent of compliance with these Conditions.

## **4 APPARENT BREACH**

4.1. Should the Commission receive any complaint in relation to non-compliance with the above Conditions, or otherwise determines that there has been an apparent breach by the Merging Parties of these Conditions, the breach shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

## **5. VARIATION**

5.1 The Merging Parties and/or the Commission may at any time, on good cause shown and on notice to the other, apply to the Tribunal for any of the Conditions to be waived, relaxed, modified or substituted.

## **6. GENERAL**

6.1. All correspondence in relation to the Conditions must be submitted to the following e-mail address: [mergerconditions@compcom.co.za](mailto:mergerconditions@compcom.co.za).

**ANNEXURE B**

<b>Design Principle</b>	<b>Applicable Criteria</b>
<b>Structure</b>	<ul style="list-style-type: none"> <li>○ The Merging Parties will establish an ESOP that will hold the equivalent of an [REDACTED] of the issued share capital of the Acquiring Firm.</li> <li>○ [REDACTED].</li> <li>○ Subject to the terms of the Conditions and these design principles, the Acquiring Firm shall have full latitude to design appropriate transaction/s to give effect to the undertaking set out in clause 2 of the Conditions.</li> </ul>
<b>Cost to Workers and participating HDPs</b>	<ul style="list-style-type: none"> <li>○ No cost to workers: Workers must not be required to pay to participate in the ESOP.</li> <li>○ The ESOP will be [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</li> <li>○ [REDACTED], 100% of the declared dividends due will be distributed to the beneficiaries.</li> <li>○ The Merging Parties must make provision and cover the reasonable costs for independent legal and financial experts to act on behalf of workers in ESOP establishment negotiations (the "Provision"). For the avoidance of doubt, the Provision shall be at no cost to workers and must not impact any dividend flows due to workers.</li> <li>○ Any disputes between the Merging Parties and any independent legal and financial experts as regards the reasonableness of fees / costs must be resolved by arbitration or any other mutually agreed dispute resolution mechanism.</li> </ul>
<b>Governance</b>	<ul style="list-style-type: none"> <li>○ If there is a board of trustees, a board of a general partner or any similar body regulating the ESOP, Workers must be represented on the board/body.</li> </ul>
<b>Duration</b>	<ul style="list-style-type: none"> <li>○ Perpetual / Evergreen</li> </ul>

<b><i>Participants</i></b>	<ul style="list-style-type: none"><li>○ All current and future Workers (not limited to HDPs)</li><li>○ All Workers [REDACTED] at the Acquiring Firm which include Virtual Payment Solutions Proprietary Limited and Switchone Proprietary Limited or the Target Firms</li></ul>
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	Solutions Proprietary Limited and Switchone Proprietary Limited or the Target Firms.
<b>Participation Benefits</b>	<ul style="list-style-type: none"><li>○ All Qualifying Workers will be entitled to dividends.</li><li>○ Beneficiaries (i.e. Qualifying Workers) will cease to participate for bad leaver events, resignations and dismissals.</li></ul>