

SOUTH AFRICA / JUDGMENT

Altron TMT SA Group (Pty) Ltd v Law Trusted Third Party Services (Pty) Ltd (LM019May21) [2021] ZACT 59 (20 September 2021)

[2021] ZACT 59

COURT

Competition Tribunal

BEFORE

E Daniels, Y Carrim, I Valodia

CASE / FILE NUMBER

LM019May21

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: LM019May21

In the matter between:

Altron TMT SA Group (Pty) Ltd

Primary Acquiring Firm

And

Law Trusted Third Party Services (Pty) Ltd

Primary Target Firms

Panel : E Daniels (Presiding Member)

: Y Carrim (Tribunal Panel Member)

: I Valodia (Tribunal Panel Member)

Heard on : 20 September 2021

Decided on : 20 September 2021

ORDER

Further to the recommendation of the Competition Commission in terms of section 14A(1)(b) of the Competition Act, 1998 (“the Act”) the Competition Tribunal orders that-

1. the merger between the abovementioned parties be approved in terms of section 16(2)(b) of the Act subject to the conditions attached hereto; and

2. a Merger Clearance Certificate be issued in terms of Competition

Tribunal rule 35(5)(a).

Presiding Member

20 September 2021

Mr Enver Daniels

Date

Concurring: Ms Yasmin Carrim and Prof. Imraan Valodia

Case no: LM019MAY21

Altron TMT SA Group (Pty) Ltd (Primary Acquiring Firm)

and

Law Trusted Third Party Services (Pty) Ltd (Primary Target Firm)

REASONS

FOR DECISION

[1] On 20 September 2021, the Competition Tribunal conditionally approved the large merger between Altron TMT SA Group (Pty) Ltd (“Altron TMT”) and Law Trusted Third Party Services (Pty) Ltd

(“LawTrust”).

[2] The proposed transaction involves Altron TMT acquiring 100% of the issued shares in LawTrust. Post-merger, Altron TMT will wholly own LawTrust.

[3] Altron TMT is ultimately controlled by Allied Electronics Corporation Limited (“Altron”), a JSE listed company not controlled by any firm. The Altron Group[1] has investments in telecommunications, multi-media, and information technology. Of relevance in the current transaction are the Acquiring Group’s information technology (“IT”) security services.

[4] Law Trust is a wholly owned subsidiary of Etion Limited ("Etion"), a JSE listed entity. LawTrust holds 50% shares in Electronic DNA Proprietary Limited (“eDNA”), which is a joint venture

with DataCentrix Proprietary Limited (“DataCentrix”). LawTrust is a specialist cyber security solutions provider, whose

main streams of business are:

4.1. Public Key Infrastructure (“PKI”), a WebTrust certified Trust Centre in South Africa from which LawTrust issues various types of digital certificates.

4.2. Digital signature solutions, in terms of which LawTrust issues Advanced Electronic Signatures. LawTrust is currently the only accredited provider of Advanced Electronic Signature certificates and Advanced Electronic Signatures. LawTrust offers a variety of electronic signature solutions, these include SigningHub, Bulk signing and Signing solutions;

4.3. Biometrics software, in terms of which LawTrust develops a matching platform to support the onboarding and ID Proofing of customers for digital signature accounts.

Horizontal overlaps

[5] The Competition Commission (the “Commission”) identified horizontal overlaps in the activities of the merging parties and assessed the impact of the proposed transaction on the following markets:

(i) the broad national market for the provision of all IT security products and services;

(ii) the narrow national upstream market for the provision of PKI and digital certificates;

(iii) the narrow national downstream market for supply of digital signature solutions; and

(iv) the narrow national market for the supply of biometric solutions.

[6] The Commission found that post-merger, the merged entity will have a low market share of less than 15% in the broad national market for the provision of all IT security products and services, and will continue to face competition from a number of suppliers of IT and security products and services.[2]

[7] In the national upstream market for the provision of PKI and digital certificates, the Commission found that the merged entity will have a moderate market share of less than 25%, and customers will have access to supply from alternative providers in the market.[3]

[8] However, in respect of Advanced Electronic Signature certificates (a specific type of digital certificates), LawTrust has a pre-merger monopoly position because the South African Post Office (“SAPO”)

has not been operational and the South African Accreditation Authority (“SAAA”) has not accredited other players in the market. The Commission is of the view that the proposed merger does not change this position because LawTrust will remain the only supplier of Advanced Electronic Signature certificates after the merger, and until the SAAA has accredited another player. The Commission was concerned that in the absence of alternative suppliers in this market, LawTrust might be incentivised to price excessively post-merger. In order to address this concern, the merging parties agreed to a condition that any future price increases would be in line with consumer price inflation.

- [9] Further, the Commission concluded that the proposed transaction is unlikely to result in the merged firm having the ability to unilaterally increase prices in the upstream market for the provision of PKI and digital certificates due to the merging parties' post-merger market shares being moderate; the existence of alternative suppliers for the supply of digital certificates that customers can switch to; and where customers do not have alternative suppliers, only LawTrust is active and the proposed merger does not alter this.
- [10] In the narrow national downstream market for the supply of digital signature solutions, the Commission received conflicting views regarding the availability of alternative digital signature solutions. However, the Commission ultimately found that the other local suppliers such as EOH and PBSA, and international suppliers such as DocuSign, Adobe Sign, PandaDoc and HelloSign may be able to constrain the merged entity post merger.
- [11] In respect of Advanced Electronic Signature certificates, the Commission noted that the merger does not alter the merged entity's ability and incentive to engage in exclusionary conduct as LawTrust is the only supplier of Advanced Electronic Signature solutions pre- and post-merger. However, according to the Commission, this is not merger specific.
- [12] The Commission also found that the merger does not raise any concerns in the narrow national market for the supply of biometric solutions, as the merging parties are insignificant players in the market with a market share of less than 15%, and there are several firms in the market which supply biometric solutions.[4]
- [13] During the hearing, the merging parties put on record that whilst they agree with the manner in which the Commission defined the relevant markets, they do not agree with the market shares as the Commission did not take into account the market shares of international players in its calculations. The Commission acknowledged that it faced difficulties in obtaining market shares from various international players and that it is possible that the market shares may be overstated in some of the relevant markets. However, the Commission submitted that the reduced market shares would not have altered the theories of harm that formed part of the Commission's analysis.

Vertical overlaps

- [14] The Commission identified a vertical overlap in relation to PKI and digital certificates solutions (upstream market) and digital signature solutions (downstream market), as both LawTrust, and the Acquiring Group supply PKI and digital certificates in the upstream market while both firms also supply digital signature solutions at the downstream level of the value chain.
- [15] The Commission found that while the merged entity may not have the ability to foreclose rivals in the downstream market from accessing PKI and digital certificates, the merged entity may have an incentive to do so as this would enable the merged entity to expand its own downstream digital signature solutions.

- [16] The Commission found that as a result of LawTrust's monopoly in respect of Advanced Electronic Signature certificates, the merged entity will likely have the ability and incentive to foreclose its downstream rivals. However, the conditions imposed address this concern by requiring the merging parties to supply Advanced Electronic Signature Certificates to all South African entities that require these products, including the merging parties' downstream rivals, on fair, reasonable and non-discriminatory commercial and pricing terms.
- [17] The Commission also found that the merged entity lacks the ability to foreclose rival digital signature solutions providers from accessing Altron Group as a customer. However, it may have the incentive to do so due to the merged entity having its own digital signature solution which competes with others in the market and it would be contrary to the rationale of expanding LawTrust's business if the Altron Group resells digital signature solutions of other providers.

Barriers to entry

- [18] The Commission considered barriers to entry in the two markets where the merging parties have high market shares, namely the PKIs and digital certificates market and the digital signature solutions market.
- [19] The Commission found that barriers to entry in both markets are high. This is due to, inter alia, legislative requirements, and significant capital and operating costs.

Coordination

- [20] As a result of this proposed transaction, the Altron Group and DataCentrix, who are competitors in the markets for ICT and IT solutions, will now have direct links to each other via the eDNA joint venture. The structural link introduced by the merger between DataCentrix and Altron Group may now make it easier for Altron Group and DataCentrix to coordinate on competitively sensitive information such as coordinating pricing and marketing policies, or to exchange sensitive information on these matters. The Acquiring Group's and DataCentrix's incentives to compete might also be reduced. The conditions imposed include a provision to prevent cross directorship; and a provision to ensure that competitively sensitive information in relation to the ICT solutions markets and related markets is not discussed, disclosed nor shared by the merging parties.
- [21] Accordingly, we conclude that the proposed transaction does not substantially prevent or lessen competition in any relevant market.

Public interest

- [22] The merger parties made an unequivocal undertaking that there shall be no retrenchments as a result of the proposed transaction.

[23] The Department of Home Affairs (“DHA”) submitted to the Commission, during the merger investigation, that conditions to the merger must require LawTrust to deliver a custom written source code in respect of a specific project of the DHA. The Merging Parties confirmed during the hearing that LawTrust has transferred the source code to the DHA as requested.

[24] The Tribunal approved the merger subject to conditions, attached as “Annexure A”.

Signed by: Enver Daniels

Signed at: 2021-09-20 17:13:48 +02:00

Reason: Witnessing Enver Daniels

20 September 2021

Mr Enver Daniels

Date

Ms Yasmin Carrim and Prof. Imraan Valodi concurring

Tribunal Case Manager: Camilla Mathonsi and Duduetsang Mogapi

For the Merging Parties: Daryl Dingley, Clare-Alice Vertue and Lebohang Makhubedu of Webber Wentzel

For the Commission:

Beverley Chomela and Grashum Mutizwa

[1] Refers to Altron TMT, its controllers, and subsidiaries.

[2] Such as Accenture, DRS, Gijima, DataCentrix, and Ayo.

[3] Such as TrustFactory and Gijima in the local market, and Entrust, Sectigo, Entersekt, Sectigo, Symantec, DigiCert, Global Sign,

Verisign and Thawte in the global market.

[4] Such as EOH, Managed Integrity Evaluation (Pty) Ltd and Xpert Decision System (Pty) Ltd, Idemia, NEC, and Ideco.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZACT/2021/59.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/altron-tmt-sa-group-pty-ltd-v-law-unknown-topic-act-2021>

Prepared on 11 October 2026 · Esheria