



## MERGER DECISION NO 29: 2021

### Notice in Terms of Section 53(4) (a) (ii) of the Competition Act of 2018

#### **DECISION ON THE PROPOSED ACQUISITION OF 100% OF THE ISSUED ORDINARY SHARES (EXCLUDING TREASURY SHARES) OF ADAPT IT BY VOLARIS GROUP INC.**

##### **Introduction of the Merging Parties**

Pursuant to section 53(4)(a)(ii) of the Competition Act of 2018 ("the Act") notice is hereby given on the decision made by the Competition and Consumer Authority ("the Authority") in relation to the proposed acquisition of up to 100% of the issued ordinary shares (excluding treasury shares) of Adapt IT Holdings Limited ("Adapt IT" or "Target Enterprise") by Volaris Group Inc. ("Volaris" or "Acquiring Enterprise").

The proposed transaction is a South African merger insofar as Adapt IT is registered in South Africa and the transaction is notified by virtue of the Target Enterprise having a subsidiary in Botswana called Adapt IT Botswana Proprietary Limited ("Adapt IT Botswana").

The Acquiring Enterprise, Volaris, is a wholly owned operating company of and controlled by Constellation Software Inc. ("Constellation"), a company incorporated under the Laws of Ontario. Constellation aims to acquire, manage and build software businesses that develop specialised, mission-critical software solutions. Constellation is headquartered in Toronto, Canada, and has offices in North America, Europe, Asia, Australia, South America and Africa. Constellation is listed on the Toronto Stock Exchange and is not controlled, directly or indirectly by any firm. In addition, Constellation does not control any firms incorporated in Botswana but provides software solutions directly into Botswana through its three (3) operating groups namely: Volaris (based in Ontario); Jonas Software Africa (Pty) Ltd; and Vela Software Africa (Pty) Ltd (both based in South Africa). The Acquiring Enterprise does not have assets in Botswana.

The Target Enterprise, Adapt IT, is a public company incorporated in accordance with the Laws of South Africa. It is listed on the securities exchange operated by the South African securities - Johannesburg Stock Exchange Limited ("JSE"). Adapt IT is not controlled, directly or indirectly by any firm and as at 16<sup>th</sup> April 2021, the beneficial shareholders owning more than 5% of the Target Enterprise's issued ordinary shares were: Mr Sibusiso Shabalala; UBS AG LDN Branch A/C Client; and Adapt IT Proprietary Limited. In Botswana, Adapt IT indirectly (through Adapt IT International Ltd) controls Adapt IT Botswana.

##### **Relevant Markets**

The parties to the transaction are domicile in South Africa and the transaction is notified in Botswana because the Target Enterprise has a subsidiary in Botswana and thus derives revenue from Botswana. Additionally, it is important to note that the Acquiring Enterprise does not have any assets in Botswana but also derives revenue from the local market by remotely providing its services to various customers in different sectors through its subsidiary companies, which are headquartered outside Botswana.

In terms of the activities of the merging parties, both Adapt IT and the Acquiring Enterprise are broadly involved in the manufacture/development and distribution of information and communication technology ("ICT") software solutions and services to different sectors of the economy. Importantly, the merging parties operate as "vertically integrated software companies therefore their offerings are targeted at addressing the needs of businesses within specific sectors or industries. Thus, the parties offer software solutions aimed at satisfying niche user segments with narrow requirements and therefore are not reasonably substitutable across customers/ sectors.

The type of software solutions offered to each industry, by the respective parties, are differentiated to such degree (in terms of functionality and/or customer base) such that they are not considered interchangeable. In contrast, horizontal software solutions are adaptable for a range of industries and thus cater to a wide and broad ranging market of consumers and are designed to satisfy the needs of as many consumers as possible and therefore may be considered reasonably interchangeable across various industries. A differentiation of the activities of the Merging Parties in specific sectors is detailed below:

#### **a. Communications**

- The target Group offers:
  - software and services for mobile network operators, including value added services, corporate customer self-service, and call data analytics (reporting tools for call data records and information on networking revenue contributors, churn management, KPIs);
  - customer experience and mobility (tools allowing customers to easily manage connectivity and usage of employee mobile devices from a central location and control over how devices interact and utilises mobile data; mobile commerce solution allowing client-to-client fund transfer, payroll/government disbursements, enables digital collections for delivery of goods, facilities micro-lending etc.; and
  - Know-Your-Client solutions designed to protect clients and their sensitive data.
- The Acquiring Group provides volunteering and fundraising software solutions (i.e. Andar 360) contact center solution combining multiple communication channels such as voice, video, e-mail, social media and chat (i.e. One contact CC) and UMB (Unstructured Supplementary Service Data) which is a protocol used by GSM cellular telephones to communicate with the service provider's computers (i.e. SICAP-UBM).

#### **b. Education**

- The Target Group offers enterprise resource planning, learning relationship management, and student management software for public universities, technical vocational education and training providers, and private higher education institutions (e.g. ITS Integrator and ICAS products). More specifically Adapt IT offers ERP software for:
  - higher education institutions to manage administrative processes;
  - software to optimise resource utilisation for both the lecture and exam timetables, timetable publication, ad-hoc room booking and attendance tracking;
  - student administration system managing the student's entire journey from registration through to graduation;

- software-as-a-service learning relationship management system for vocational training solutions;
  - web-enabled online student lifecycle management system; and
  - Moodle e-learning services, i-Chain (lecturer) services, education best practice services and education innovation.
- The Acquiring Group provides private sector clients statistical software solutions, providing tools for response surface methods (i.e. DesignExpert); library management solutions for schools and software to build eBooks and audiobooks software (i.e. Softlink Education); and software for special, corporate, legal and higher education libraries including library and research management systems (i.e. Softlink IC).

### **c. Hospitality**

- The Target Group offers point of sale solutions for Food & Beverages (F&B) restaurant chains and property management solutions for large hotel chains (e.g. Micros).
- On the other hand, the Acquiring Group supplies software for leisure, sports and fitness businesses and it does not offer point of sale and property management solutions in the hospitality sector.

It is important to note that the Target Group also provides its services in the Energy sector and its client sectors in the energy industry include oil majors, downstream oil and gas as well as mining and chemicals. The Target Group designs, implements and supports SAP and supply chain solutions within the oil and gas sector. Its solutions integrate between ERP, terminal automation and management, fleet management and routing, warehousing and fuel-retail network management.

### **Geographic Market**

The geographical market is national (Botswana).

### **Competitive Analysis and Public Interest**

In the assessment of Substantial Lessening of Competition, the proposed transaction is not expected to significantly adjust the level of competition in the market under consideration in Botswana. The Authority therefore does not expect the proposed transaction to give rise to any Substantial Lessening of Competition; restrict trade or the provision of services; or to endanger the continuity of supplies in the relevant market in Botswana. Additionally, there exist other well established players who are expected to discipline the competitive behaviour of the merged entity post-merger.

Due to the difference in the products offered by the Merging Parties, the structure of the relevant market is not expected to change post-merger. The proposed transaction will not result in any significant market share accretion of the merged entity or any other entity in Botswana. Thus, the merged entity will not attain any dominant position because of the proposed transaction.

In terms of Public Interest Considerations, the proposed merger will not have any negative effects on public interest issues in Botswana. In particular, there will be no adverse effects on the employees of Adapt IT Botswana in Botswana. In that regard, the Authority does not foresee any detriment to matters of public interest that will arise because of the transaction under consideration.

## **The Determination**

The Authority determined through the analysis of the facts of the merger, that the structure of the relevant market is not expected to significantly change upon the implementation of the proposed merger; and the proposed transaction is not likely to result in any adverse effects on competition, nor endanger the continuity of the supply of goods and services in the relevant market in Botswana. Furthermore, the proposed merger will not have any negative effect on public interest matters in Botswana as per the provisions of section 52(2) of the Competition Act 2018.

Pursuant to the provision of section 53 of the Act, the Authority has unconditionally approved the proposed acquisition of up to 100% of the issued ordinary shares (excluding treasury shares) of Adapt IT Holdings Limited or by Volaris Group Inc.

However, as stated under Section 61 of the Act, this approval does not override or negate any other mandatory statutory approvals or processes that any of the parties to this merger must comply with under the Laws of Botswana.

Dated at Gaborone on this 10<sup>th</sup> day of September 2021.

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