

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM107OCT21

SPE Mid-Market Fund I Partnership (represented by the general partner, SPE Mid-Market Fund I General Partner (Pty) Ltd) Primary Acquiring Firm
And

Q Link Holdings (Pty) Ltd Primary Target Firm

Heard on: 09 December 2021

Order Issued on: 09 December 2021

Reasons Issued on: 10 December 2021

REASONS FOR DECISION

- [1] On 9 December 2021, the Competition Tribunal unconditionally approved a large merger whereby SPE Mid-Market Fund I Partnership ("SPE Fund"), represented by the general partner, SPE Mid-Market Fund I General Partner (Pty) Ltd, "SPE Fund General Partner", intends to acquire [REDACTED] % of the issued share capital and sole control of Q Link Holdings (Pty) Ltd ("Q Link").
- [2] The SPE Fund is controlled by its general partner, the SPE Fund General Partner which is wholly controlled by [REDACTED] which in turn is wholly owned by [REDACTED] is [REDACTED] % controlled by Sanlam Limited ("Sanlam"), a public company listed on the Johannesburg Stock Exchange ("JSE"), with a secondary listing on the Namibian Stock Exchange in Namibia. Sanlam is not controlled by any firm and shareholder and its shares are widely held.¹ Sanlam and its subsidiaries are collectively referred to as the "Acquiring Group". The SPE Fund controls the following companies: Cavalier Group of Companies (Pty) Ltd ("Cavalier") and Absolute Pets (Pty) Ltd ("Absolute Pets").
- [3] Q Link is a private company incorporated in accordance with the laws of the Republic of South Africa and it is not controlled by any of its shareholders.² Q Link controls QSURE (Pty) Ltd ("QSURE"), a private company incorporated in accordance with the laws of South Africa, with its business address at 6 St Giles Street, Randburg, Johannesburg, Gauteng Province.
- [4] The Acquiring Group is a financial services group in South Africa, with business interests elsewhere in Africa, the United Kingdom, Europe, India, Australia, Southeast Asia and the United States of America. The Acquiring Group's areas of expertise include long-term insurance, financial planning, retirement planning, trusts, wills, short-term insurance, asset management, risk

¹ As of 31 December 2020, the following entities held more than a 5% shareholding in Sanlam: Ubuntu-Botho Investments (Pty) Ltd, as to 13.13%, and the Government Employees Pension Fund, as to 13.05%.

² The non-controlling and minority shareholders of Q Link: [REDACTED]

management and capital market activities, investment services, lending services and wealth creation. Through its four business clusters, the Acquiring Group provides financial solutions to individual and institutional clients across a multitude of market segments.

- [5] The SPE Fund falls within the Sanlam Private Equity division, which falls within the Sanlam Investments cluster. The Sanlam Private Equity division has been active in private equity investing since 1998 and currently manages a portfolio of over R [REDACTED] on behalf of the Acquiring Group. The Sanlam Private Equity division recently launched the SPE Fund, a new third-party private equity fund and Black Fund Manager as defined in the Broad-Based Black Economic Empowerment (“B-BBEE”) Codes of Good Practice. The SPE Fund has target capital commitments of R [REDACTED] and seeks to partner with entrepreneurs and family owned businesses to make private equity related, as well as B-BBEE investments, in South Africa and the rest of Africa. The SPE Fund’s investment portfolio currently comprises of the Cavalier³ and Absolute Pets⁴ investments. The SPE Fund has identified Q Link as its third acquisition.
- [6] Q Link is a financial technology business that provides payment collection solutions to improve collection rates for third-party benefit providers. Q Link is primarily focused on the insurance industry and processes deductions on behalf of its clients directly from individuals’ payroll or bank accounts by way of early direct orders (“EDOs”). Q Link has also developed a number of adjacent products such as Moneyhub, Emolument Attachment Orders (“EAOs”) and Membership Administration Services (“MAS”) around these collection solutions to diversify its revenues. Through QSURE, Q Link has a second operating business which is a funds collection and disbursement business with a primary focus on the short-term insurance industry, servicing intermediaries, brokers and insurers.

SLPC Assessment

- [7] When considering the merging parties’ activities, the Competition Commission (“Commission”) found that the proposed transaction does not result in a horizontal overlap. The Commission did, however, identify an existing vertical relationship between the merging parties as Q Link currently provides payment collection solutions – payroll deductions, bank deductions and EAO solutions – to the Acquiring Group. Q Link has approximately less than 5% market share for the provision of payment collection solutions in South Africa. There are about seven other providers of payment collection solutions to downstream rivals of the Acquiring Group. In addition, the other customers of Q Link (i.e., [REDACTED] did not raise any concerns regarding the proposed transaction. The Commission found that the proposed transaction is also unlikely to result in any customer foreclosure concerns. In this regard, the Commission found that approximately [REDACTED]% of the Acquiring Group’s payments and collections volumes are serviced internally [REDACTED]. The largest independent provider of payments and collections services to the Acquiring Group is [REDACTED]. Based on the above, the Commission was of the view that the proposed transaction is unlikely to substantially prevent or lessen competition.

³ Cavalier Group is a vertically integrated meat producer in South Africa, trading in the procurement, packaging, sale and distribution of red meat and related products. [REDACTED]

⁴ Absolute Pets is a specialist retailer in the South African pet care industry. Absolute Pets’ retail product range covers a broad basket of pet-related products including food, healthcare products and accessories.

- [8] The Tribunal probed the risk of information sharing through Q Link to Sanlam of information belonging to Sanlam's competitors who are current Q Link customers; and whether or not a condition protecting against information sharing should be imposed in line with the merging parties' assurances that post-merger, Q Link will continue to operate independently and on a ring-fenced basis with no preferential treatment given to the Sanlam Group nor will any competitive information be shared with Sanlam (or *vice versa*).
- [9] In response to the Tribunal's concerns, the merging parties provided that there is sufficient structural independence between them; in that, the private equity arm of the Sanlam Group (which includes SPE) is a very small part of the group and SPE is far removed from the group's insurance cluster. Furthermore, there will be no Sanlam representatives on the Q Link board of directors, nor on the SPE board nor any of the other SPE-investee companies. Likewise, there will be no SPE or Q Link representatives on the Sanlam Board of Directors. It was also asserted that the commercial incentives to violate their independence by sharing information do not exist because Q Link's business model is premised on independence. Failure to ensure that such independence is maintained post-transaction will likely see Q Link lose customers (and market share). The Tribunal was satisfied with the parties' assertion that the risk of information sharing did not exist.

Public Interest Assessment

- [10] Regarding the proposed merger's impact on employment, the merging parties provided that the SPE Fund currently does not have any employees in South Africa or elsewhere. The Commission contacted an employee representative at Sanlam Investment Management and SPE Fund General Partner, [REDACTED] who confirmed that the proposed transaction does not raise any employment concerns. Q Link's employees are represented by [REDACTED] [REDACTED] confirmed that none of Q Link's employees have raised any employment concerns regarding the proposed transaction.
- [11] Regarding the spread of ownership, Q Link is a level 4 B-BBEE contributor, pre-merger. Both the SPE Fund and its general partner, SPE Fund General Partner are black owned in terms of the B-BBEE Ownership Codes. The Acquiring Group has a historically disadvantaged group shareholding of near 50%. Its largest historically disadvantaged shareholders are Government Employees Pension Fund (managed by the Public Investment Corporation) and Sanlam's black economic empowerment partner, Ubuntu-Botho Investments Limited. The transaction will also result in the replacement of a foreign private equity shareholder [REDACTED] and the introduction of the SPE Fund resulting in Q Link becoming a majority black owned firm - improving its B-BBEE rating from Level 4 to Level 2.

- [12] We conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Furthermore, it raises no public interest concerns.

Enver Daniels

Mr Enver Daniels

Prof Imraan Valodia and Dr Thando Vilakazi concurring

10 December 2021

Date

Tribunal Case Manager:

For the Merging Parties:

For the Commission:

Mpumelelo Tshabalala

Sazi Madlala and Richardt van Rensburg of
ENSAfrica

Zanele Hadebe, Thabelo Masithulela and
Tamara Paremoer