



COMESA Competition Commission

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**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/9/29/2023

Decision¹ of the 103rd Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Merger involving AfricInvest Fund IV LLC, AfricInvest IV Netherlands C.V., AfricInvest Fund III LLC, Kanuri ISN Limited and Ison Infotel Limited

ECONOMIC SECTOR: Information and Technology



13 December 2023

¹ In the published version of this decision, some information has been omitted pursuant to Rule 73 of the COMESA Competition Rules concerning non-disclosure of business secrets and other confidential information. Where possible, the information omitted has been replaced by ranges of figures or a general description.

The Committee Responsible for Initial Determinations,

Cognisant of Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa (the “**COMESA Treaty**”);

Having regard to the COMESA Competition Regulations of 2004 (the “**Regulations**”), and in particular Part 4 thereof;

Mindful of the COMESA Competition Rules of 2004, as amended by the COMESA Competition [Amendment] Rules, 2014 (the “**Rules**”);

Conscious of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation of 2015;

Recalling the overriding need to establish a Common Market;

Recognising that anti-competitive mergers may constitute an obstacle to the achievement of economic growth, trade liberalization and economic efficiency in the COMESA Member States;

Considering that the continued growth in regionalization of business activities correspondingly increases the likelihood that anti-competitive mergers in one Member State may adversely affect competition in another Member State,

Desirability of the overriding COMESA Treaty objective of strengthening and achieving convergence of COMESA Member States’ economies through the attainment of full market integration,

Having regard to the COMESA Merger Assessment Guidelines of 2014,

Determines as follows:

Introduction and Relevant Background

1. On 20 October 2023, the COMESA Competition Commission (the “**Commission**”) received a notification for approval of a merger involving AfricInvest Fund IV LLC, AfricInvest IV Netherlands C.V., AfricInvest Fund III LLC and Kanuri ISN Limited as the acquiring firms and Ison Infotel Limited as the target firm, pursuant to Article 24(1) of the Regulations.
2. Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the transaction between the parties would or is likely to have the effect of substantially preventing or lessening competition or would be contrary to public interest in the Common Market.
3. Pursuant to Article 13(4) of the Regulations, there is established a Committee Responsible for Initial Determinations, referred to as the CID. The decision of the CID is set out below.



The Parties

The Acquirers

4. AfricInvest Fund IV LLC is a limited liability company established in Mauritius. AfricInvest IV Netherlands C.V. is a limited partnership (commanditaire vennootschap) established in The Netherlands, registered with the Business Register of The Netherlands Chamber of Commerce (“**AF IV CV**”). AfricInvest Fund III LLC is a limited liability company established in Mauritius (“**AF III LLC**”). AF IV LLC, AF IV CV and AF III LLC are together referred to as **AfricInvest**.
5. Kanuri ISN Limited, a limited liability company established in Mauritius (“**Kanuri**”). Kanuri is a special purpose vehicle specifically incorporated to undertake the Proposed Transaction. Kanuri has no presence in the Common Market. AfricInvest and Kanuri are together referred to as **the Acquirers**.
6. The parties submitted that AfricInvest is an investment group that manages multiple alternative asset classes with several lines of businesses that include private equity, venture capital, private credit and asset management. AfricInvest provides financing for companies in Africa at various development stages, seeking to deliver value and impact for its investors, portfolio companies, and the communities it serves. AfricInvest is active in the following Member States in the Common Market: Egypt, Ethiopia, Kenya, Libya, Malawi, Mauritius, Rwanda, Tunisia, and Uganda.
7. Through AF III LLC, AfricInvest holds 26.7% of the shares in Silafrica Plastic and Packaging International Limited (“**Silafrica**”), a holding company incorporated in Mauritius that holds operating subsidiaries in Kenya, Ethiopia and other countries outside COMESA. Silafrica manufactures and supplies high-quality plastic packaging from ISO 9000 and ISO 22000 Certified factories and provides containers for packaging of food, yoghurts, oils, and paint.
8. In addition, AF III LLC has 34.54% participation in AfricInvest Fund III SPV 1, which in turn holds 17,5% of shares in Britam Holdings Limited and AF III LLC holds approximately 1.98% shares in the company directly. Britam Holdings Limited is a financial services group incorporated in Kenya with operations in Kenya, Uganda, Rwanda, South Sudan, Mozambique, Malawi and other countries outside COMESA. Britam provides solutions for insurance, investment management and property management for the personal, commercial and corporate sectors.
9. AF III LLC has also invested in the following entities which have operations in COMESA:



- a) Carbon Holdings (operating in Egypt), a privately owned midstream and downstream petrochemical and process industrial plant company, in which AF III LLC holds 7.09% through an SPV EHI 2 (Mauritius);
 - b) One Tech Group (operating in Tunisia), an industrial player operating in the automotive, energy and industry sectors, in which AF III LLC holds 8.8%;
 - c) Prime Bank (Kenya), in which AF III LLC holds 24.2% through an SPV in Mauritius (in which AF III LLC holds 52.5%);
 - d) Salvador Caetano Auto Africa SGPS S.A which operates in auto distribution and retail in markets with large growth potential and is the exclusive auto distributor of Ford, Audi, Seat, Volkswagen and Skoda and also Toyota, Renault and KIA. In COMESA, it has a presence in Kenya and Tunisia. AF III LLC holds 36.3% through a 100% held SPV in Luxembourg; and
 - e) The Target in which AF III LLC already holds 13.5%.
10. Further, through AF IV LLC, AfricInvest owns 36.29% of AutoXpress International Limited (**AutoXpress**), a holding company incorporated In Mauritius with operating subsidiaries in Kenya, Uganda, Rwanda and other countries outside COMESA. AutoXpress is an importer, distributor and retailer of tyres, auto parts and accessories.

Ison Infotel Limited (the Target)

11. The Target is a company incorporated under the laws of Mauritius. The Target is an investment holding company that has various subsidiaries in different regions in Africa and outside Africa. In COMESA, the Target has the following subsidiaries in Zambia, Egypt, Ethiopia, Kenya, Malawi, Mauritius, Rwanda and Uganda which offer Business Process Outsourcing (BPO) services, which include call center services and information technology services:
- a) Mauritius: The Target owns 100% of iSon Xperiences Limited formerly known as Ison BPO Limited.
 - b) Kenya: iSon Xperiences Limited owns 94.11% of the shares in ISON Xperiences Kenya Limited formerly known as ISON BPO Kenya Limited.
 - c) Uganda: iSon Xperiences Limited owns 93.21% of the shares in ISON BPO Uganda Limited.
 - d) Rwanda: iSon Xperiences Limited owns 66.67% of the shares in ISON BPO Rwanda Limited.
 - e) Zambia: iSon Xperiences Limited owns 99.98% of the shares in ISON Zambia Limited.



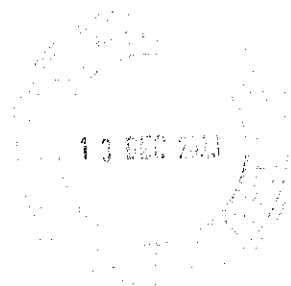
- f) Malawi: iSon Xperiences Limited owns 100% of the shares in ISON BPO Limited.
 - g) Ethiopia: Ison Xperiences Limited owns 99% of Ison Xperiences Ethiocall PLC (Ethiopia).
 - h) Egypt: iSon Xperiences Cyprus Limited owns 99.6% of Ison Xperiences Egypt Outsourcing.
12. The subsidiaries in Zambia, Egypt, Ethiopia, Kenya, Malawi, Mauritius, Rwanda and Uganda are collectively referred to as the **COMESA Targets**.

Jurisdiction of the Commission

13. Article 24(1) of the Regulations requires 'notifiable mergers' to be notified to the Commission. Rule 4 of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation (the "**Merger Notification Thresholds Rules**") provides that:

Any merger, where both the acquiring firm and the target firm, or either the acquiring firm or the target firm, operate in two or more Member States, shall be notifiable if:

- a) *the combined annual turnover or combined value of assets, whichever is higher, in the Common Market of all parties to a merger equals or exceeds USD 50 million; and*
 - b) *the annual turnover or value of assets, whichever is higher, in the Common Market of each of at least two of the parties to a merger equals or exceeds USD 10 million, unless each of the parties to a merger achieves at least two-thirds of its aggregate turnover or assets in the Common Market within one and the same Member State.*
14. The undertakings concerned have operations in two or more Member States. The merging parties derive combined turnover in excess of the threshold of USD 50 million in the Common Market and they each derive turnover of more than USD 10 million in the Common Market. In addition, the parties do not derive more than two-thirds of their respective aggregate COMESA-wide turnover within one and the same Member State. The notified transaction is therefore notifiable to the Commission within the meaning of Article 23(5)(a) of the Regulations.



Details of the Merger

15. The Acquirers intend to subscribe for 1,357,810 new preference shares in the capital of the Target pursuant to the provisions of an Investment Agreement dated 6 September 2023 (the “Investment Agreement”). The shareholding of the Target following completion of the Proposed Transaction will be as set out in the table below:

Table 1: Post-Merger Shareholding Structure of the Target

Name of Shareholder	No. of Shares	Shareholding (%)
ISON Infotel network Limited, BVI	946,760 ordinary shares	28.24%
AF III LLC	588,576 ordinary shares	17.56%
AF IV LLC	712,148 preference shares	21.25%
AF IV CV	106,507 preference shares	3.18%
Kanuri	789,226 preference shares	23.54%
Pravin Kumar	125,276 ordinary shares	3.74%
ISON Group ESOP Trust	83,517 ordinary shares	2.49%

COMPETITION ASSESSMENT

Consideration of the Relevant Markets

Relevant Product Market

16. The target’s subsidiaries offer Business Process Outsourcing (BPO) services, which include call center services and information technology. While AfricInvest has a presence in COMESA through investments in the holding companies that deal in tyres and auto parts, insurance, banking, energy, auto distribution and plastic packaging, it does not provide any services in COMESA similar to the BPO and call centre services provided by the COMESA Targets. In the absence of both horizontal and vertical overlaps in the activities of the merging parties pre-merger, the CID considered the activities of the target for purposes of assessing the potential relevant markets.
17. BPO is the practice of contracting an external service provider to fulfill a business function or process. BPO is sometimes referred to as information technology-enabled services because outsourced processes in the modern business world are often reliant on IT in one way or another². Generally, companies outsource non-core tasks—functions that, while essential to business, are not part of its core value proposition—that are similar across companies and industries. These include back-office operations (internal business functions) like accounting, IT services, procurement, quality assurance and human resources management, and front-office (client-facing)

² International Business Machines Corporation, ‘What is business process outsourcing (BPO)?’ <https://www.ibm.com/topics/business-process-outsourcing>



roles like sales, marketing or customer support. According to Deloitte's 2021 Global Shared Services and Outsourcing Survey Report, IT, finance and payroll are the most commonly outsourced roles³.

18. BPO begins when a company determines it can gain a benefit from outsourcing a business function, such as marketing, accounting or supply chain management, to an external company⁴. Traditionally, companies have outsourced functions mainly to cut costs, save time and improve performance. While these benefits remain the primary drivers of BPO, the trend toward digital transformation has more firms looking beyond cost-saving strategies with an increased focus on access to technology and provider expertise.
19. The CID observed that industry analysts such as Gartner⁵ sub-divide the market in six categories: a) consulting services, b) development and integration services, c) hardware and maintenance services, d) IT management (outsourcing), e) BPO and f) software maintenance services. In several previous decisions related to IT services, the European Commission (the "EC") analysed various potential market segmentations in the IT services sector by distinguishing among seven types of services, in line with the approach taken by Gartner Group, with the addition of education and training⁶. In **CAP GEMINI / BAS**, the market investigation conducted by the EC was not conclusive as to whether there is a single market for IT services or whether the overall IT service market should be further subdivided in different segments and sub-segments, noting that the market for IT services is a dynamic market with a degree of supply-side substitutability between the various IT services⁷. The EC also considered whether the provision of IT services should be segmented in relation to the type of industry in which the customer is active, or according to the size of the customer or in relation to the size of the outsourcing customers, but ultimately left the markets open.
20. For the purpose of the assessment of the present transaction, the exact scope of the market for IT services can be left open, given that the proposed transaction does not raise any competition concerns under any alternative market definition.

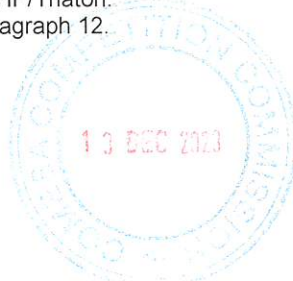
³ *Ibid.*

⁴ Forbes (May 2023), 'What Is Business Process Outsourcing (BPO)?' <https://www.forbes.com/advisor/business/business-process-outsourcing/>

⁵ Gartner, an independent industry analyst specialised in the IT industry, collects market data and produces reports, in which the overall IT services market is subdivided into various segments.

⁶ See e.g. Commission decision of 25 July 2008 in Case COMP/M.5197 – HP/EDS; Commission decision of 29 June 2001 in Case COMP/M.2478 – IBM Italia/Business Solutions/JV; Commission decision of 17 May 2000 in Case COMP/M. 1901 – Cap Gemini/Ernst & Young; Commission decision of 15 June 1999 in Case No IV/M.1561 – Getronics/Wang; Commission decision of 31 January 2002 in Case No IV/M.2609 – HP/Compaq; and Commission decision of 26 March 2004 in Case No IV/M.3398 – HP/Triaton.

⁷ Case No COMP/M.5301 - CAP GEMINI / BAS, paragraph 12.



Relevant Geographic Market

21. BPO services can be offered at national level, or across borders depending on the type of IT service required. In *HP/EDS*, IT services and their narrower segments were even considered to be worldwide by the vast majority of respondents to the market investigation, although a minority of respondents suggested that the IT Management segment could have an EEA-wide scope. In *CAP GEMINI / BAS*, the markets for IT services presented characteristics of both EEA-wide and national markets. It was found that a number of local competitors principally developed a national presence and limited their offer to customers in a single country, whereas the largest competitors were international firms, offering contracts to their customers covering locations in different countries. The majority of customers also indicated that a strong local presence is sometimes required for at least some IT services, whereas for other IT services they accept that the IT service provider locate their operations in other countries. A minority of respondents indicated that, although there are some geographic areas with local specificities as regards IT services (such as Help Desk Management and Business Consulting), the geographic market for IT services should be considered worldwide as IT services are offered on a global basis, either through subcontracting or through alliances.
22. The CID considered that customers within the Common Market are likely to value suppliers' ability to provide products and services tailored to local cultural, language and business particularities. The parties further confirmed that their customers are based in each country of operations. For example, Kenya customers are based in Kenya, Ugandan Customers in Uganda. The parties further confirmed that currently there are no international clients being served by Targets⁸.
23. For purposes of this transaction, the CID was of the view that the relevant geographic market for the provision of IT services is likely to be national. Nonetheless, the exact geographic market definition can be left open as the proposed transaction would not give rise to any competition concerns under any alternative market definition.

Market Shares and Concentration

24. The merging parties submitted they do not have data on the market share of the COMESA Targets and their competitors. Notwithstanding the absence of market share data, it is recalled that there is no competitive overlap between the activities of the merging parties, and as such the transaction will not result in any market share accretion. Further, the parties will continue to face competition from the remaining players on the relevant markets.

⁸ Email from merging parties dated 8 November 2023.

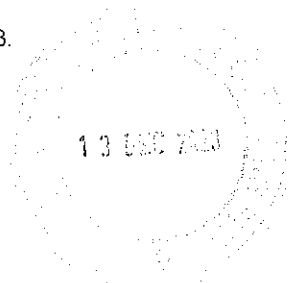


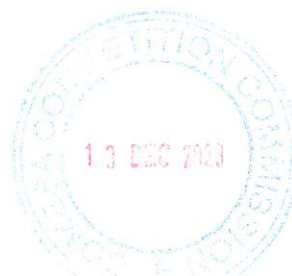
Table 2: List of Competitors in affected Member States

Member State	Competitors
Kenya	Telesky Limited
	Impact Outsourcing Limited
	Emez JIT Solutions
	ADEC Kenya
	Accurate Africa eServices Ltd
	Stelden (East Africa) Ltd
	Fusion Communication Systems
	ACORNS Investments
	Horizon Contact Centres
	Ideon Limited
	Lance Alexander Communication LTD
	Adept Technologies
	Rwanda
CCI Rwanda	
Premier East Africa Ltd	
Nimbus Ltd	
Zambia	Client Care Solutions
	FSI Outsourcing Limited
	Exponent Bizolution Limited
Malawi	KempCall Limited

25. In view of the absence of overlap between the activities of the merging parties pre-merger, the transaction will not result in any market share accretion and will not result in the merging parties obtaining any dominant position in the relevant markets that could in turn result in unilateral effects.
26. Further, as the transaction will not result in the removal of a competitor in the relevant market, it will therefore not lead to any change in market structure that could incentivize or facilitate collusive conduct between the merging parties and remaining players on the market.

Consideration of Third-Party Views

27. The CID considered submissions from the national competition authorities of Egypt, Kenya, Malawi and Mauritius, which confirmed that the transaction was not likely to raise competition and public interest concerns post-merger. This is consistent with the CID's findings, as discussed above.



Determination

28. Based on the circumstances of the case and having regard to the foregoing assessment, the CID determined that the merger is not likely to result in substantial prevention or lessening of competition in any potential relevant market within the Common Market, nor be contrary to public interest. The CID further determined that the transaction is unlikely to negatively affect trade between Member States. The CID, therefore, approved this transaction.
29. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 13th day of December 2023

Commissioner Dr Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma

Commissioner Islam Tagelsir Ahmed Alhasan

