IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

CT Case No: 017657, 017665

In the matters between:

COMESA FINANCIAL EXCHANGE PROPRIETARY LIMITED	1st Applicant
EMID HOLDINGS PROPRIETARY LIMITED	2nd Applicant
LEXSHELL 129 GENERAL TRADING PROPRIETARY LIMITED	3rd Applicant
NOMAD INFORMATION SYSTEMS PROPRIETARY LIMITED	4th Applicant
and	
COMPETITION COMMISSION OF SOUTH AFRICA	1st Respondent
and	
ASSOCIATION OF SYSTEM OPERATORS	1st Intervener
CONCORDE SOLUTIONS PROPRIETARY LIMITED	2nd Intervener
DIRECT TRANSACT PROPRIETARY LIMITED	3rd Intervener
EFT POS PROPRIETARY LIMITED	4th Intervener
PAYCORP HOLDINGS PROPRIETARY LIMITED	5th Intervener
ACET PROCESSING PROPRIETARY LIMITED	6th Intervener
DRAWCARD PROPRIETARY LIMITED	7th Intervener
EASYPAY PROPRIETARY LIMITED	8th Intervener

Panel	:	Norman Manoim (Presiding Member) Anton Roskam (Tribunal Member) Yasmin Carrim (Tribunal Member)
Heard on	:	12 December 2013
Order issued on	:	13 December 2013

ORDER

MERGING PARTIES' DISCOVERY APPLICATION DATED 2 DECEMBER 2013

After having heard the parties in the above matter the Competition Tribunal orders as follows:

1. The request for discovery of items **2.1.5; 2.1.6; 2.1.7; 2.3; 2.5; 2.11; 2.12** and **2.13,** referred to in the attached Annexure A and as amended further at the hearing, is dismissed.

2. No order is made in respect of the remaining items in the attached annexure A.

3. There is no order as to costs.

Mr. Norman Manoim

13 December 2013
DATE

Mr. Anton Roskam and Ms. Yasmin Carrim concurring

"ANNEXURE A"

Schedule in respect of the outstanding documents in relation to the Merging Parties' and the Interveners' respective discovery requests

Item no.	Description of document request outstanding	Party requesting document	Reason for Non-Discovery
All categories of discovered documents			
All items	All documents previously discovered by the Interveners and yet to be discovered, for the same period as for which the merging parties have provided discovery (i.e. 1 July 2008 until 30 June 2013).	Merging Parties	Impermissible
Board documentation and financial statements			
2.1	All strategic documents prepared by or for any board or committee, insofar as they refer to or discuss –	Merging Parties	See below
2.1.2	market conditions in the subject markets or in the national payments industry;	Merging Parties	Alleged to have been provided
2.1.5	potential business opportunities, strategies and/or limitations regarding the subject markets to the national payments industry;	Merging Parties	Alleged to have been provided
2.1.6	co-operation, joint ventures and/or partnerships with any other system operator and/or with Bankserv;	Merging Parties	Alleged to be irrelevant.
2.1.7	potential acquisitions;	Merging Parties	Alleged to be irrelevant.
Business opportunities and customer information			
2.3	Co-operation, joint ventures or partnerships between any one or more of the Interveners.	Merging Parties	Alleged to be irrelevant.
2.5	Proposals or tenders to customers in the subject markets.	Merging Parties	Alleged to be irrelevant.

Item no.	Description of document request outstanding	Party requesting document	Reason for Non-Discovery
			Also alleged to be over burdensome, overbroad and unhelpful.
2.6 (incl. 2.6.1 & 2.6.2)	Current contracts between the Interveners and their customers relating to the Bankserv access service, connectivity or account hosting.	Merging Parties	Alleged to be irrelevant. Also alleged to be overly broad and over burdensome.
2.7	New customers acquired by the Interveners.	Merging Parties	Alleged to be irrelevant.
2.8	The Ithala RFP.	Merging Parties	Alleged to be irrelevant. Also alleged to be a poor proxy for the merger's effect.
Bundling			
2.10	Proposals for combinations, packaging, bundling and/or discounting in relation to or in connection with services in the subject markets.	Merging Parties	Alleged to be irrelevant.
Mergers, acquisitions and consolidation in the market			
2.11 (incl. 2.11.1 to 2.11.6)	Documents such as due diligence reports, SWOT analyses, etc., regarding transactions between or involving the Interveners (in particular the Paycorp and Actis subsidiaries).	Merging Parties	Alleged to be irrelevant. Also alleged to fall outside of the relevant period for discovery.
2.12	Merger filings in respect of the transactions referred to in 2.11 above.	Merging Parties	Alleged to be irrelevant.
Volumes and profitability			
2.13	All documents which reflect, discuss, contain or depict –		
2.13.1	individual, consolidated, packaged and/or bundled system operator services;	Merging Parties	Alleged to be irrelevant. Also alleged to be over burdensome, overbroad and

Item no.	Description of document request outstanding	Party requesting document	Reason for Non-Discovery
			unhelpful.
2.13.2	the ability for the Interveners to offer individual, consolidated, packaged and/or bundled system operator services;	Merging Parties	Alleged to be irrelevant.
2.13.3	the prices and profitability of all products and services supplied by the Interveners in the subject markets or system operator services which are consolidated, packaged and/or bundled with services in the subject markets;	Merging Parties	Alleged to be irrelevant.
2.13.4	Management accounts and financial statements of each of the Interveners.	Merging Parties	Alleged to be complete.
2.13.5	transaction volumes processed by the Interveners or in respect of which the Interveners provide system operator services, (including any breakdowns by type of service/s);	Merging Parties	Alleged to be irrelevant.
2.13.6	the number of POS devices operated by the Interveners; and	Merging Parties	Alleged to be irrelevant.
2.13.7	to the extent not already provided, in respect of Direct Transact –		
2.13.7.1	the transaction volumes processed in relation to switching transactions; and	Merging Parties	Alleged to be irrelevant.
2.13.7.2	the number of accounts in relation to account hosting/banking platform services.	Merging Parties	Alleged to be irrelevant.
Submissions by the Interveners			
2.15 (incl.	All documents which refer to, contain, discuss or demonstrate capital development and/or	Merging Parties	Alleged to be irrelevant. Also alleged to fall outside of the

Item no.	Description of document request outstanding	Party requesting document	Reason for Non-Discovery
2.15.1 to 2.15.4.3)	marketing costs and/or barriers to entry.		relevant period for discovery.