

Consent to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority ('CMA') on 11 January 2016

Completed acquisition by Intercontinental Exchange, Inc. (ICE) of Trayport

We refer to your email and accompanying note received on 3 February 2016 requesting that the CMA consents to derogations to the Initial Enforcement Order of 11 January 2016 (the '**Initial Order**'). The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save for written consent by the CMA, ICE and Trayport (the '**Parties**') are required to hold separate the Trayport business from the ICE business and refrain from taking any action which might prejudice a reference under section 22 of the Act or impede the taking of any remedial action following such a reference. After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, ICE may carry out the following actions, in respect of the specific paragraphs:

Data centre and back-up generator services – paragraphs 5(e), 5(f), and 5(l) of the Order

The CMA understands that Trayport's data centre and back-up generator services – which are essential to the maintenance of the Trayport business as a going concern – are currently provided by the seller on a temporary basis under a transition services agreement (TSA). The Parties submit that switching provider is a lengthy procedure and therefore request a derogation from the Order to allow the transfer to ICE of the provision of Trayport's data centre and back-up generator services.

The CMA consents to the provision of data centre and back-up generator services to the Trayport business being transferred to ICE's data centre in Basildon. The following individuals are permitted to receive confidential information from Trayport as strictly necessary for this purpose:

- [✂]

- [REDACTED]

The CMA gives its consent on the basis that arrangements will be put in place to ring-fence confidential Trayport information within the team and that the individuals listed above sign non-disclosure agreements, the wording of which must be approved by the CMA, in order to prevent the dissemination of commercially sensitive information. Furthermore, should the transaction be prohibited or remedies accepted, that any records or copies (electronic or otherwise) of such information that have passed from Trayport to Intercontinental Exchange, wherever they may be held, will be returned to the Trayport business or destroyed. In granting this derogation to the Order, the CMA has also taken into account the Parties' submission that transfer of services does not create any risk of pre-emptive action that could prejudice the CMA's investigation and should any divestment scenario be considered, ICE could provide the services on a transitional basis to the buyer in the same way as the seller is currently providing the services to ICE.

Financials software – paragraphs 5(f) and 5(l) of the Order

Various central finance functions and software are currently provided to Trayport on a temporary basis under a TSA by the seller. In order to ensure the effective operation of the Trayport business, ICE requests a derogation to allow it to provide these central finance functions and software, which is necessary to enable Trayport to continue operating as a going concern.

The CMA consents to the Trayport business having access to ICE's financials software and for the migration to ICE's system of Trayport data relating to accounts receivable, accounts payable, general ledger, and fixed assets.¹ The following individuals are permitted to receive confidential information from Trayport as strictly necessary for this purpose:

¹ The Parties confirmed to the CMA that this will not include information regarding third party transactions made using the Trayport software.

ICE Finance team:

- [✂]
- [✂]
- [✂]

ICE Accounting team:

- [✂]
- [✂]
- [✂]
- [✂]
- [✂]
- [✂]
- [✂]
- [✂]
- [✂]

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Capex/Opex Veto Right – paragraphs 5(a) and (c) of the Order

During the Specified Period, the CMA consents for Intercontinental Exchange to be given notice of any proposed new or unbudgeted expenditure by the Trayport

business exceeding [REDACTED], or [REDACTED] in aggregate, and consents to Intercontinental Exchange having a right to veto the proposed expenditure if, in good faith, it considers the expenditure to be out of the ordinary course of business. The following individuals are permitted to receive confidential information from Trayport as strictly necessary for this purpose:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The CMA gives its consent on the basis that:

1. ICE is required to inform the CMA if the right to veto is exercised to deny an expenditure exceeding [REDACTED], or [REDACTED] in aggregate, and to provide an explanation to the CMA as to why the expenditure was denied.
2. The individuals listed above sign non-disclosure agreements, the wording of which must be approved by the CMA, in order to prevent the dissemination of commercially sensitive information and, should the transaction be prohibited or remedies accepted, that any records or copies (electronic or otherwise) of such information that have passed from Trayport to ICE, wherever they may be held, will be returned to the Trayport business or destroyed.