

**ACQUISITION BY DX NETWORK SERVICES LIMITED OF THE  
BUSINESSES AND ASSETS COMPRISING THE LEGAL POST  
(SCOTLAND) LIMITED AND FIRST POST LIMITED**

**Initial Enforcement Order made by the  
Competition and Markets Authority pursuant to  
section 72(2) of the Enterprise Act 2002 (the Act)**

Whereas:

- (a) the Competition and Markets Authority (CMA) has reasonable grounds for suspecting that it is or may be the case that DX Network Services Limited and the businesses and assets comprising The Legal Post (Scotland) Limited and First Post Limited (**the Legal Post and First Post businesses**) have ceased to be distinct;
- (b) the CMA is considering, pursuant to section 22 of the Act, whether it is or may be the case that a relevant merger situation has been created and whether the creation of that situation has resulted or may be expected to result in a substantial lessening of competition in any market or markets in the United Kingdom (UK);
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under section 22 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference; and
- (d) the circumstances set out in section 72(6) of the Act do not apply and the reference has not been finally determined in accordance with section 79(1) of the Act.

Now for the purposes of preventing pre-emptive action in accordance with section 72(2) of the Act the CMA makes the following order addressed to DX (Group) plc (**DX (Group)**) and DX Network Services Limited (**DX Network Services**) (**Order**).

**Commencement, application and scope**

1. This Order commences on the commencement date: 4 July 2016.

2. This Order applies to DX (Group) and DX Network Services.
3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige DX (Group) or DX Network Services to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.

**Management of the DX (Group) and the Legal Post and First Post businesses until determination of proceedings**

4. Except with the prior written consent of the CMA, DX (Group) and DX Network Services shall not, during the specified period, take any action which might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on such a reference, including any action which might:
  - (a) lead to the integration of either or both of the Legal Post and First Post businesses with the DX (Group) business;
  - (b) transfer the ownership or control of the DX (Group) business or either or both of the Legal Post and First Post businesses or any of their subsidiaries; or
  - (c) otherwise impair the ability of the Legal Post and First Post businesses or the DX (Group) business to each compete independently in any of the markets affected by the transaction.
5. Further and without prejudice to the generality of paragraph 4 and subject to paragraph 3, DX (Group) and DX Network Services shall at all times during the specified period procure that, except with the prior written consent of the CMA:
  - (a) the Legal Post and First Post businesses are each carried on separately from the DX (Group) business and the Legal Post and First Post businesses' separate sales or brand identities are maintained;
  - (b) the Legal Post and First Post businesses and the DX (Group) business are maintained as going concerns and sufficient resources are made available for the development of the Legal Post and First Post businesses and the DX (Group) business, on the basis of their respective pre-merger business plans;
  - (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management

responsibilities within, each of the Legal Post and First Post businesses or the DX (Group) business;

- (d) the nature, description, range and quality of goods and/or services supplied in the UK by each of the three businesses are maintained and preserved;
- (e) except in the ordinary course of business for the separate operation of the three businesses:
  - (i) all of the assets of the Legal Post and First Post businesses and the DX (Group) business are maintained and preserved, including facilities and goodwill;
  - (ii) none of the assets of the Legal Post and First Post businesses or the DX (Group) business are disposed of; and
  - (iii) no interest in the assets of the Legal Post and First Post businesses or the DX (Group) business is created or disposed of;
- (f) there is no integration of the information technology of the Legal Post and First Post businesses or the DX (Group) business, and the software and hardware platforms of the Legal Post and First Post businesses shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the three businesses shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Legal Post and First Post businesses will be carried out by the Legal Post and First Post businesses alone and for the avoidance of doubt the DX (Group) business will not negotiate on behalf of the Legal Post and First Post businesses (and vice versa) or enter into any joint agreements with the Legal Post and First Post businesses (and vice versa);
- (h) all existing contracts of the Legal Post and First Post businesses and the DX (Group) business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the Legal Post and First Post businesses or DX (Group) business;
- (j) no key staff are transferred between the Legal Post and First Post businesses and the DX (Group) business;

- (k) all reasonable steps are taken to encourage all key staff to remain with the Legal Post and First Post businesses and the DX (Group) business; and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to any of the three businesses shall pass, directly or indirectly, from the Legal Post and First Post businesses (or any of its employees, directors, agents or affiliates) to the DX (Group) business (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (for example, where required for compliance with external regulatory and/or accounting obligations) and on the basis that, should the transaction be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

## **Compliance**

- 6. DX (Group) and DX Network Services shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
- 7. DX (Group) and DX Network Services shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by DX (Group) and DX Network Services and their subsidiaries with this Order. In particular, on 18 July 2016 and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officers of DX (Group) and DX Network Services or other persons of DX (Group) and DX Network Services as agreed with the CMA shall, on behalf of DX (Group) and DX Network Services, provide a statement to the CMA in the form set out in the Annex to this Order confirming compliance with this Order.
- 8. At all times, DX (Group) and DX Network Services shall, or shall procure that the Legal Post and First Post businesses shall, actively keep the CMA informed of any material developments relating to the Legal Post and First Post businesses or the DX (Group) business, which includes but is not limited to:
  - (a) details of key staff who leave or join the Legal Post and First Post businesses or the DX (Group) business;
  - (b) any interruption of the Legal Post and First Post businesses or DX (Group) business (including without limitation its procurement, production,

logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;

- (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the Legal Post and First Post businesses or DX (Group) business including any substantial changes in customers' demand; and
  - (d) substantial changes in either or both of the Legal Post and First Post businesses' or DX (Group) business' contractual arrangements or relationships with key suppliers.
9. If DX (Group) or DX Network Services has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that DX (Group) and/or DX Network Services may be directed to appoint under paragraph 10.
10. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke any directions so given.
11. DX (Group) and DX Network Services shall comply in so far as they are able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.

## **Interpretation**

12. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.
13. For the purposes of this Order:

**'the Act'** means the Enterprise Act 2002;

**'an affiliate'** of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

**'business'** has the meaning given by section 129(1) and (3) of the Act;

**'commencement date'** means 4 July 2016;

**'control'** includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

**'the decisions'** means the decisions of the CMA on the questions which it is required to answer by virtue of section 35 of the Act;

**'DX (Group)'** means DX (Group) plc (company number 08696699);

**'the DX (Group) business'** means the business of DX (Group) plc and its subsidiaries carried on as at the commencement date;

**'DX Network Services'** means DX Network Services Limited (company number 05026914);

**'First Post'** means First Post Limited (company number SC238887);

**'key staff'** means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business;

**'Legal Post'** means The Legal Post (Scotland) Limited (company number SC210146);

**'the Legal Post and First Post businesses'** means the businesses and assets of Legal Post and First Post that were the subject of the transaction as at the commencement date;

**'the ordinary course of business'** means matters connected to the day-to-day supply of goods and/or services by the Legal Post and First Post businesses or the DX (Group) business and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of the Legal Post and First Post businesses and the DX (Group) business;

**'specified period'** means the period beginning on the commencement date and terminating in accordance with section 72(6) of the Act;

**'subsidiary'**, unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

**'the transaction'** means the transactions by which DX Network Services and the Legal Post and First Post businesses have ceased to be distinct within the meaning of section 23 of the Act;

**'the three businesses'** means the DX (Group) business and the the Legal Post and First Post businesses;

unless the context requires otherwise, the singular shall include the plural and vice versa.

Eithne McCarthy  
Assistant Director, Mergers

## Compliance statement for DX (Group) / DX Network Services

I [insert name] confirm on behalf of DX (Group) / DX Network Services that:

### Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
  - (a) DX (Group) / DX Network Services has complied with the Order made by the CMA in relation to the transaction on 4 July 2016 (the Order).
  - (b) DX (Group)'s / DX Network Services' subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
  - (a) No action has been taken by DX (Group) / DX Network Services that might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
    - (i) lead to the integration of either or both of the Legal Post and First Post businesses with the DX (Group) business;
    - (ii) transfer the ownership or control of the DX (Group) business or either or both of the Legal Post and First Post businesses or any of their subsidiaries; or
    - (iii) otherwise impair the ability of the Legal Post and First Post businesses or the DX (Group) business to each compete independently in any of the markets affected by the transaction.
  - (b) The Legal Post and First Post businesses have been carried on separately from the DX (Group) business and the Legal Post and First Post businesses' separate sales or brand identities have been maintained.
  - (c) The Legal Post and First Post businesses and the DX (Group) business have been maintained as a going concern and sufficient resources have been made available for the development of the Legal Post and First Post businesses and the DX (Group) business, on the basis of their respective pre-merger business plans.



- (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, each of the Legal Post and First Post businesses or the DX (Group) business, except in the ordinary course of business.
- (e) The nature, description, range and quality of goods and/or services supplied in the UK by each of the Legal Post and First Post businesses and the DX (Group) business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the three businesses:
  - (i) all of the assets of the Legal Post and First Post businesses and the DX (Group) business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
  - (ii) none of the assets of the Legal Post and First Post businesses or the DX (Group) business have been disposed of; and
  - (iii) no interest in the assets of the Legal Post and First Post businesses or the DX (Group) business has been created or disposed of.
- (g) There has been no integration of the information technology of the Legal Post and First Post businesses or the DX (Group) business, and the software and hardware platforms of the the Legal Post and First Post businesses have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the three businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Legal Post and First Post businesses have been carried out by the Legal Post and First Post businesses alone and, for the avoidance of doubt, the DX (Group) business has not negotiated on behalf of the the Legal Post and First Post businesses (and vice versa) or entered into any joint agreements with the Legal Post and First Post businesses (and vice versa).
- (i) All existing contracts of the Legal Post and First Post businesses and the DX (Group) business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the Legal Post and First Post businesses or the DX (Group) business.

- (k) No key staff have been transferred between the Legal Post and First Post businesses and the DX (Group) business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the the Legal Post and First Post businesses and the DX (Group) business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to any of the three businesses, has passed, directly or indirectly, from the Legal Post and First Post businesses (or any of its employees, directors, agents or affiliates) to the DX (Group) business (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except as listed in paragraph (o) below, there have been no:
  - (i) key staff that have left or joined the Legal Post and First Post businesses or the DX (Group) business;
  - (ii) interruptions of the Legal Post and First Post businesses or the DX (Group) business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
  - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Legal Post and First Post businesses or the DX (Group) business; or
  - (iv) substantial changes in either or both of the Legal Post and First Post businesses' or the DX (Group) business' contractual arrangements or relationships with key suppliers.

(o) *[list of material developments]*

3. DX (Group) / DX Network Services and its subsidiaries remain in full compliance with the Order and will, or will procure that the Legal Post and First Post businesses, continue actively to keep the CMA informed of any material developments relating to the the Legal Post and First Post businesses or the the DX (Group) business in accordance with paragraph 8 of the Order.

**Interpretation**

- 4. Terms defined in the Order have the same meaning in this compliance statement.

FOR AND ON BEHALF OF DX (GROUP) PLC / DX NETWORK SERVICES LIMITED

Signature .....

Name .....

Title .....

Date .....