

Remarks to the proposal “ice-trayport-remedies-proposal.pdf”

Remarks specific to what is proposed by ICE-Trayport in the document:

A – Listed Key Products:

- Is the list of products complete?
- In the product enumeration the existing Trayport APIs (Read-Only API for Broker BTS and Writable API for TGW) should be seen also as a product and therefore are missing from our perspective which in turn raises immediately the question what happens to the APIs in the near future and what is than the impact on the currently existing competition. Wouldn't it increase further the lessening of competition and stabilize the Trayport monopoly for API based solutions from third parties?

A- 4. Is exclusion of exclusivity really sufficient? What about conditions with respect to additional fees when using 3rd party products? As mentioned, we see there a pre-merger lack of competition.

A 6. Does this also comprise functionality for the existing APIs?

A 7. This is still a strange proposal to us when taking into account that customers mentioned in A are bound for many years to Trayport and have no possibilities to change the provider earlier though the service quality could change by this in any way.

A 8. As documented from the input of markets and exchanges to this investigation there is a strong demand from them for more competition and choice of additional software providers. This proposal would undermine a possible change in behaviour of Trayport to allow markets to provide direct access to its BTS or ETS (which is current practise of Trayport).

B – No specific comments, except for the general remark that being compliant to such a confidentiality firewall within one company would be hard to supervise and raise continuously additional effort. From our perspective the best control instead would come from more competition and choice.

C – No remarks

D – No remarks

General remarks:

Regardless of the points ICE and Trayport have proposed, we still have strong concerns with respect to the existing lack of competition and the lack of a discrimination-free access to the European energy markets which are based on Trayport systems. We see in this document an approach to re-establish and to fix the current status for a long time. Additionally, we see there an approach to gain time for whatever comes. Based on this proposal, customers were still bound to the monopoly. A strengthen of this monopoly is not prevented when users of Trayport software, not markets, are still forced to pay additional fees when using 3rd party products which in turn naturally excludes competition.

If this proposal would be accepted by the CMA and established, we would then kindly ask the CMA to consider a further investigation of the pre-merger status of the lack of competition due to the monopoly and the obvious absence of a discriminatory-free direct access to the Trayport-based markets.