

COMPLETED ACQUISITION BY INTERCONTINENTAL EXCHANGE, INC. OF TRAYPORT, INC. AND GFI TP LTD

Notice of and consultation on the proposed Final Order pursuant to section 84 of and Schedule 10 to the Enterprise Act 2002

1. On 3 May 2016, the Competition and Markets Authority (CMA), exercising its powers under section 22 of the Enterprise Act 2002 (the Act) referred the completed acquisition by Intercontinental Exchange, Inc. of Trayport, Inc. and GFI TP Ltd., including their subsidiaries, (the Merger) for further investigation and report by a group of CMA panel members.
2. The CMA published *Intercontinental Exchange and Trayport: A report on the completed acquisition by Intercontinental Exchange, Inc. of Trayport* (the Report) on 17 October 2016 under [section 38](#) of the Act. In the Report, the CMA concluded, in accordance with [section 35](#) of the Act, that:
 - a. a relevant merger situation has been created as a result of the Merger;
 - b. the creation of that situation has resulted or may be expected to result in a substantial lessening of competition (SLC) within the market for the supply of trade execution services to energy traders and trade clearing services to energy traders in the EEA, including to UK based customers;
 - c. the CMA should take action for the purpose of remedying, mitigating or preventing the SLC or any adverse effect which has resulted from, or may be expected to result from, the SLC; and
 - d. the full divestiture of Trayport by Intercontinental Exchange, Inc. would be an effective and proportionate remedy to the SLC and any adverse effects which have resulted from, or may be expected to result from, the SLC.
3. Intercontinental Exchange, Inc. made an application to the Competition Appeal Tribunal pursuant to section 120 of the Act against the Report on 11 November 2016. The proposed Order, while commencing on the day it is made, envisages that the time period to comply with both the Effective Divestiture and termination of the New Agreements will not start to run until the day following the date on which proceedings in the Competition Appeal Tribunal are finally determined.

4. In accordance with [section 90](#) of, and paragraph 2(1)(a) of [Schedule 10](#) to, the Act, the CMA now gives notice of the proposed Order to remedy, mitigate or prevent the SLC and any resulting customer detriment, which it identified in the Final Report.
5. The CMA invites written representations on the proposed Order from any interested person or persons. Representations made in response to this Notice should reach the CMA by 5pm on 30 December 2016. Representations should be made in writing and should be addressed to:

Project Manager
ICE/Trayport merger inquiry
Competition and Markets Authority
Victoria House
Southampton Row
London WC1B 4AD
or by email to: ice.trayport@cma.gsi.gov.uk

6. The CMA will have regard to any representations made in response to this Notice and may make modifications to the proposed Order as a result. If the CMA considers that any representation necessitates any material change to the proposed Order, the CMA will give notice of the proposed modifications.
7. This Notice and a non-confidential version of the proposed Order will be published on the CMA website. The CMA has excluded from the non-confidential version of the Order information which it considers should be excluded having regard to the three considerations set out in section 244 of the Act. These omissions are indicated by [X].

SIMON POLITO
Group Chair
30 November 2016