

**Consent to certain actions for the purpose of the Order made by
the Competition and Markets Authority (the CMA) on 5 January
2017**

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

I am writing to you in response to your email of 11 July 2017 to Smith and Williamson LLP in their role as monitoring trustee and subsequent correspondence requesting that the CMA consents to derogations to the order made by the CMA in accordance with section 84 of the Enterprise Act 2002 on 5 January 2017 (**the Order**). The terms defined in the Order have the same meaning in this letter.

Under the 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 or impede the taking of any remedial action the CMA may order.

In response to a previous request dated 21 April 2017 the CMA authorised a derogation to the terms of the Order on 10 May 2017. After due consideration of the request that the derogation dated 10 May 2017 be revised, based on the information received from you and in the particular circumstances of the case, the CMA has decided to revoke the derogation dated 10 May 2017 and replace it with a new derogation.

Accordingly, ICE may carry out the following actions:

The Derogation:

The CMA consents to a derogation from paragraph 3.2.14 of the Order strictly limited to the purpose of the divestment process, including preparatory steps such as setting up the data room (**the Purpose**).

The CMA gives its consent on the basis that only the permitted named individuals at ICE listed in Annex 1 of this letter (as amended from time to time by the written consent of the CMA) may be given access to the due diligence information in accordance with the terms of the Protocol set out in Annex 2 of this letter and that prior to any information being shared, the individuals must sign a non-disclosure agreement in a form agreed to by the Monitoring Trustee and the CMA which

prevents the further sharing of the information or its use for any purpose other than the Purpose.

Any non-disclosure agreement agreed to by the Monitoring Trustee and the CMA and signed by the individual for the purpose of complying with the derogation dated 10 May 2017 shall continue to be valid for the purposes of this derogation.

Yours sincerely

Sarah Cardell

General Counsel

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Annex 1

List of Approved Individuals

The relevant individuals approved under the derogation dated 20 July 2017 are:

(i) [✂]

(ii) [✂]

(iii) [✂]

(iv) [✂]

(v) [✂]

(vi) [✂]

(vii) [✂]

(viii) [✂]

(ix) [✂]

(x) [✂]

(xi) [✂]

(xii) [✂]

(xiii) [✂]

Annex 2

Protocol for confidential information in the divestment process

1. In order to prepare for and conduct a divestment of Trayport, should that be required, ICE needs information on Trayport's business, performance and prospects to be prepared for disclosure to potential purchasers. Given that some of the detailed information will be confidential, Trayport has been tasked with preparing the data room for the divestment, the Confidential Information Memorandum to send to purchasers, management presentations for the purchasers and other necessary information. For ICE to assess value and risk and to be able to negotiate with potential purchasers, a mechanism is needed for ICE to have access to this work. That access will be moderated under the CMA derogation dated 20 July 2017 (the **Derogation**) in accordance with this Protocol.
2. **All persons listed in Annex 1 of the Derogation (as amended from time to time by the written consent of the CMA)** may, for the purposes of the Derogation, receive the following confidential information included in the output of Trayport's work:
 - all financial information prepared on an aggregated basis or a basis that does not disclose the identity of individual competitor venues;
 - all other business information relating to historic and future operations, opportunities and risks that does not disclose the identity of individual competitor venues;
 - all information held by Trayport prior to the Interim Enforcement Order being made;
 - all information that is in the public domain.
3. **ICE's external legal and financial advisors** may, for the purposes of the Derogation, receive any information in the data room, the Confidential Information Memorandum, management presentations and other disclosures made or to be made to a potential purchaser that is or includes commercially sensitive data (e.g. customer identifying information), provided that such information should not be shared with or permitted to pass to ICE.
4. **ICE's [X]** may, for the purposes of the Derogation and notwithstanding paragraph 3 of this Protocol, during the later rounds of negotiations with a short list of potential purchasers, receive commercially sensitive data to which paragraph 3 above relates, from ICE's external legal and financial advisors, where that commercially sensitive data becomes or is likely to become a material

issue in the negotiations with a potential purchaser and it is necessary for ICE to gain knowledge of such data to progress the divestment. However, before sharing any information under the terms of this paragraph, ICE's external legal and financial advisors must first consult the Monitoring Trustee. The receipt or sharing of information under this paragraph must not extend beyond ICE's General Counsel, Associate General Counsel M&A and Chief Commercial Officer without the approval of the Monitoring Trustee.

5. Where a purchaser is a competitor or customer of Trayport, commercially sensitive information may only be disclosed to an M&A clean team, pre-approved by the Monitoring Trustee, within that purchaser. For the avoidance of doubt, ICE will only access commercially sensitive information relating to a purchaser's commercial arrangements with Trayport on the terms of paragraphs 3 and 4 of this Protocol and with the prior agreement of the purchaser.
6. Following the divestment all such information shall be returned to Trayport or destroyed, subject to any record retention requirements of ICE; provided that ICE shall not access or use such information for any purpose, except legal or regulatory compliance.