

ACQUISITION BY PAYPAL HOLDINGS, INC. OF IZETTLE AB

Directions issued pursuant to paragraph 10 of the Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72(2) of the Enterprise Act 2002 (the Act) on 19 September 2018

- A. On 19 September 2018 the Competition and Markets Authority (**CMA**) made an Initial Enforcement Order in accordance with section 72(2) of the Enterprise Act 2002 (the '**Act**') addressed to PayPal Holdings, Inc ('**PayPal**'), PayPal (Europe) Sarl et Cie ('**PayPal Europe**') and PayPal SE (the '**IEO**') for the purpose of preventing pre-emptive action.
- B. On 20 September 2018 PayPal acquired iZettle AB ('**iZettle**') (together known as '**the Parties**') (the '**Merger**').
- C. On 20 September 2018 the CMA granted a derogation exempting the PayPal International business and the iZettle International business from the IEO (the '**September derogation**'). The September derogation continues to apply.
- D. On 8 October 2018 the CMA granted a derogation consenting to PayPal, PayPal Europe and PayPal SE receiving assistance from certain individuals of iZettle with regards to the non-UK integration of the PayPal International business and the iZettle International business (the '**October derogation**'). The October derogation continues to apply.
- E. On 7 November 2018 the CMA granted a derogation consenting to PayPal, PayPal Europe and PayPal SE receiving assistance from certain individuals of iZettle with regards to the non-UK integration of the PayPal International business and the iZettle International business (the '**November derogation**'). The November derogation continues to apply.
- F. On 5 December 2018 the CMA referred the Merger for a phase 2 investigation pursuant to section 22(1) of the Act (the '**Reference**').
- G. On 18 December 2018 the CMA granted a derogation consenting that the compliance statements for the period 14 to 27 December 2018, including the period up to 3 January 2019, be provided on 3 January 2019, and that certificates of compliance be required every two weeks thereafter (the '**December derogation**'). The Fifth derogation continues to apply.

H. The CMA now issues written directions under paragraph 10 of the IEO that, for the purposes of securing compliance with the IEO, that PayPal must appoint a monitoring trustee in accordance with the terms provided for in the Annex and shall comply with the obligations set out in the Annex.

Signed

Douglas Cooper
Project Director
24 December 2018

Annex

Directions to appoint a monitoring trustee

Interpretation

In these Directions:

- (a) 'the Act' means the Enterprise Act 2002;
- (b) 'CMA' means the Competition and Markets Authority;
- (c) 'Directions' means the directions issued under paragraph 10 of the IEO;
- (d) 'Interim Enforcement Order' means the interim enforcement order made by the CMA on 19 September 2018;
- (e) 'business' has the meaning given by section 129(1) and (3) of the Act;
- (f) 'the Commencement Date' means 20 September 2018;
- (g) 'PayPal' means PayPal Holdings, Inc registered at 2211 North First Street, San Jose, California, USA. For the purposes of these Directions, PayPal includes PayPal Europe and PayPal SE.
- (h) 'the PayPal business' means the business of PayPal Holdings, Inc and its subsidiaries carried on as at the Commencement Date, including PayPal (Europe) and PayPal SE, excluding (1) the PayPal International business as defined in the September derogation and (2) the iZettle business;
- (i) 'the PayPal International business' means the business of PayPal and its subsidiaries carried on outside the UK excepting any business activities outside of the UK which are necessary for the effective functioning of PayPal's and its subsidiaries' business activities in the UK, as at the Commencement Date;
- (j) 'iZettle' means iZettle AB, registered under number 556806-0734;
- (k) 'the iZettle business' means the business of iZettle AB and its subsidiaries carried on as at the commencement date, excluding the iZettle International business as defined in the September derogation;
- (l) 'the iZettle International business' means the businesses of the following subsidiaries of iZettle: iZettle do Brasil Meios de Pagamento S.A., iZettle Merchant Services SAS, iZettle Mexico S. de R.L. de C.V., iZettle Marketing Germany GmbH, iZettle España S.L.U, and iZettle Merchant Services AS;
- (m) 'MT' means the monitoring trustee appointed in accordance with the Directions.

Terms and expressions defined in the IEO have the same meaning in these Directions, unless the context requires otherwise.

Appointment

1. PayPal must appoint an MT in order to:
 - (a) report on the extent of compliance with the IEO;
 - (b) assess the extent of integration between PayPal and iZettle;
 - (c) report on the adequacy of the IEO;
 - (d) monitor compliance with the IEO;
 - (e) assist with the consideration of further derogation requests; and
 - (f) in the event that the CMA requires a divestiture, ensure that any divestiture process is carried out in compliance with the CMA's decision in its final report and with the interim measures.
2. The MT must act on behalf of the CMA and be under an obligation to the CMA to carry out his or her functions to the best of his or her abilities.
3. PayPal and iZettle must cooperate fully with the MT, in particular as set out below, and PayPal must ensure that the terms and conditions of appointment of the MT reflect and give effect to the functions and obligations of the MT and the obligations of PayPal and iZettle as set out in these Directions.

General

4. The MT must possess appropriate qualifications and experience to carry out his or her functions.
5. The MT must neither have nor become exposed to a conflict of interest that impairs the MT's objectivity and independence in discharging his or her duties under these Directions, unless it can be resolved in a manner and within a timeframe acceptable to the CMA.
6. PayPal shall remunerate and reimburse the MT for all reasonable costs properly incurred in accordance with the terms and conditions of the appointment and in such a way so as not to impede the MT's independence or ability to effectively and properly carry out his or her functions.
7. PayPal must appoint the MT as soon as is reasonably practicable and in any event by 11 January 2019 and the MT will continue to act either until the CMA has finally determined the reference (within the meaning of section 79 of the Act) or directs that the MT is no longer required.

8. The appointment of the MT by 11 January 2019 is subject to the approval of the CMA as to the identity of the MT and the terms and conditions of appointment in their entirety and;
 - (a) the name of the proposed MT must be notified to the CMA as soon as is reasonably practicable and in any event by 4 January 2019 along with draft terms and conditions of appointment; and
 - (b) once the MT has been approved by the CMA and appointed, PayPal must provide the CMA with a copy of the agreed terms and conditions of appointment.

Functions

9. The functions of the MT will be to:
 - (a) ascertain the current level of compliance by PayPal and iZettle with the IEO;
 - (b) assess the arrangements made by PayPal and iZettle for compliance with the IEO and what changes to those arrangements, if any, are necessary to preserve the possibility of the CMA taking any remedial action, if required;
 - (c) identify and supervise if necessary the arrangements made by PayPal and iZettle for ensuring compliance with the IEO;
 - (d) monitor compliance by PayPal and iZettle with the IEO; and
 - (e) without prejudice to the right of PayPal or iZettle to contact the CMA, respond to any questions which PayPal or iZettle may have in relation to compliance with the IEO, in consultation with the CMA.
10. The MT must take such steps as he or she reasonably considers necessary in order to carry out his or her functions effectively, including the monitoring of communications within and between the PayPal business and the iZettle business, such as written and electronic communications, telephone conversations and meetings as may be required.
11. The MT must comply with any requests made by the CMA for the purpose of ensuring the full and effective compliance by PayPal and iZettle and all its subsidiaries with the IEO.

Obligations of PayPal and iZettle

12. PayPal and iZettle and their subsidiaries and their employees, officers, directors, advisers and consultants must cooperate fully with the MT, in particular by providing the MT with all cooperation, assistance and information

as the MT may reasonably require in order to discharge his or her functions, including but not limited to:

- (a) the provision of full and complete access to all personnel, books, records, documents, facilities and information of PayPal or iZettle as the MT may reasonably require; and
- (b) the provision of such office and supporting facilities as the MT may reasonably require.

13. If PayPal or iZettle or any of their subsidiaries are in any doubt as to whether any action or communication would infringe the IEO, it is required to contact the MT for clarification.

14. If PayPal or iZettle or any of their subsidiaries has any reason to suspect that the IEO may have been breached, it must notify the MT and the CMA immediately.

Reporting functions

15. The MT is required to provide an initial report to the CMA no later than 23 January 2019 giving details of any arrangements which have been, or should be, put in place to ensure compliance with the IEO, and including among other things:

- (a) details of the current extent of compliance with the Phase 1 IEO;
- (b) a description of the current arrangements made for the separate operation of the PayPal business and the iZettle business and for the preservation of the assets required to operate the iZettle business; and
- (c) recommendations as to what changes to those arrangements, if any, are necessary.

16. In addition to providing the initial report referred to in paragraph 15 above, the MT must provide every two weeks (or otherwise as required by the CMA) a statement to the CMA stating whether or not, in his or her view, PayPal and all its subsidiaries has complied with the IEO. At the same time, the MT must provide the CMA with a report setting out the following:

- (a) the basis for the MT's view that the IEO has or has not, as the case may be, been complied with and in particular whether:
 - (i) anything has caused him or her to be concerned as to whether PayPal and all its subsidiaries has complied with the IEO, and if it has, whether those concerns have been resolved and why;

- (ii) he or she has any remaining doubts or uncertainties as to whether PayPal and all its subsidiaries has complied with the IEO; and
 - (iii) anything that causes him or her to be concerned about a possible future breach of the IEO (whether deliberate or inadvertent);
- (b) details of the performance of the PayPal business and iZettle business, including any factors that might indicate asset deterioration;
- (c) whether appropriate steps are being taken to maintain the iZettle business as a going concern;
- (d) the extent to which PayPal and iZettle and all their subsidiaries have cooperated with the MT in his or her task of monitoring its compliance with the IEO and details of any aspects of the cooperation of PayPal or iZettle or all their subsidiaries that he or she considers could be improved;
- (e) the extent to which the MT considers that he or she is in an appropriate position to monitor the compliance of PayPal and iZettle and all their subsidiaries with the IEO and if there is anything that the MT considers would assist him or her in monitoring compliance;
- (f) any current or anticipated requests for consent to vary the IEO; and
- (g) the information he or she used to compile the report.

17. When providing reports to the CMA the MT must ensure that he or she does not disclose any information or documents to the CMA which PayPal or iZettle or any of their subsidiaries would be entitled to withhold from the CMA on the grounds of legal privilege.

18. The MT must immediately notify the CMA in writing if he or she forms a reasonable suspicion that the IEO has been breached, or if he or she considers that he or she is no longer in a position to effectively carry out his or her functions. In that situation, the MT must give reasons for this view; including any supporting evidence available (unless doing so would infringe the obligations referred to in paragraph 17 above).

All communications between the MT and the CMA (including the report and statement referred to in paragraphs 15 and 16) are confidential and should not be disclosed to PayPal and iZettle or any of their subsidiaries or to the PayPal business or iZettle business, save with the prior written consent of the CMA. The MT shall not disclose such communications to thi