PAYPAL / iZETTLE

RESPONSE TO PHASE I DECISION

This is PayPal's response to the CMA's Phase 1 Decision of 26 November 2018 (the **Decision**) in respect of the completed acquisition of iZettle by PayPal (the **Merger**).[1] It focusses on presenting new evidence beyond that already put to the CMA in Phase 1, although the prior evidence and submissions should continue to be considered by the CMA during the Phase 2 process.

1 Executive summary

1.1 Technology in the payments industry has evolved rapidly in recent times as a result of developments in methods of making and taking payment and the revolution taking place in mobile (and cloud-based) software. As a result, current payment solutions for merchants, which replaced older methods of accepting payments, are competing with a raft of emerging new solutions – both involving new methods to accept card payments and acceptance of other methods of payment that by-pass the card schemes (for example, direct transfers between bank accounts). **This background is described further in section 3 below.**

1.2 This is crucial context for this Merger, which is not about entrenching a position or establishing an unmatchable advantage. On the contrary, it is driven by the rapidly evolving technology that is dramatically affecting consumer payment behaviour through a mass movement away from cash to various forms of card and digital payments, the significant changes in merchant needs as a result and the myriad sources of significant competition that PayPal faces from well-resourced players in the payments and technology arena – it is a question of PayPal running to keep up with the pace of change in this growing industry rather than creating a position from which it can sit back and exploit existing offerings.

1.3 This dynamic applies whether we consider offline payments through card reader devices or omni-channel services, which offer a one-stop-shop to service the emerging business requirements for merchants (including but not limited to payment acceptance) across all channels in which they might operate.

1.4 Against this background, the parties believe that the Merger does not give rise to a substantial lessening of competition for the following reasons:

(a) All merchants have a broad and increasing range of ways to accept card payments. In-store, currently, card payments can be accepted through non-mobile (utilising a fixed line connection to a payment network) or mobile card readers. Mobile card readers are either linked to the payment network through wifi or an inbuilt SIM (together with non-mobile devices, referred to in the Decision as "**non-mPOS devices**") or use a Bluetooth connection to a mobile phone or tablet, which then create the link to the network ("**mPOS devices**"). As is apparent from the description above, mobile "non-mPOS devices" are very similar to "mPOS" devices and both have been designed to serve the same purpose (the technology for both was developed to allow payment to be taken away from a fixed till to reflect broader consumer and merchant need). Non-mPOS devices are by far the most popular device amongst all (including smaller) merchants (accounting for in excess of 90% of transaction value accepted in-store by smaller merchants) and the commercial propositions for both types of device are often very similar now. **See section 4 below for further detail.**

(b) Even within the narrow segment of mPOS devices only, the positions of the existing players are changing rapidly and historic shares do not account for the evolving competitive dynamic. For example, SumUp has doubled its share of app downloads in a year, following a price cut in September 2017, and has been rapidly catching up with iZettle. PayPal Here has been caught up by Square (which is expected to expand quickly). Barclaycard remains

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active, WorldPay has very recently launched a new offering with a simplified pricing structure and First Data is rumoured to be launching a new "PIN on glass" device in the near future. These trends have also been confirmed by preliminary results from iZettle's ordinary course of business churn survey for Q4 2018 which show [✂] switching to [✂] whilst many more switch to [✂] and non-mPOS players including [✂] and [✂]. **See section 5 below for further detail.**

(c)   The evidence shows that iZettle and PayPal Here are not the closest of competitors – they do not play an important role in determining each other's pricing decisions; [✂]; and they have different customer bases. **See section 5 below for further detail.**

(d)   The "most likely" counterfactual to the Merger is that iZettle would have continued to compete closely with SumUp and Square, and more broadly with other POS device suppliers (including acquirers and Independent Sales Organisations (**ISOs**)), and that PayPal Here would have continued its [✂] (in circumstances where merchant demand for payment solutions is growing) with an [✂] and a strategy focussed largely on a more [✂]. [✂]. **See section 6 below for further detail.**

(e)   There is no prospect of anticompetitive harm following the Merger, in a context where the merged entity will continue to be faced with significant competitors, where price discrimination is not an option, where demand is price elastic and where rapid new customer acquisition is essential (and possible to achieve quickly by reducing prices). **See section 7 below for further detail.**

(f)   This Merger does not raise any concerns about nascent competition in omni-channel services. These services are about meeting the emerging holistic requirements of a merchant in terms of managing products, customer data and sales channels (online, offline, remote and mobile). Taking payments is only one of many services needed. In general, smaller merchants might require less sophisticated omni-channel services (and payment services may form a more important part of their requirements) but smaller businesses will still look to their providers to offer products that consolidate store front, inventory, product, customer and payment information (just without the need for complex integrated back office systems). Even smaller merchant demands remain complex and largely driven by requirements borne out of the industry in which they compete. **See section 8 below for further detail.**

(g)   In that context, there is no prospect of a substantial lessening of competition in respect of the supply of omni-channel services to smaller merchants because:

    (i)   The Merger is about bringing together largely complementary businesses to create a stronger omni-channel offering to smaller merchants to try to keep up with the many existing offerings from established players like Barclaycard, WorldPay, First Data (Clover), and Paymentsense, as well as from emerging players like Square, Shopify and Stripe **(see section 9 below for further detail)**. However, this is likely to be the [✂].

    (ii)   Neither party would have been able to produce this offering alone in any reasonable timescale:

        (A)   iZettle is a small player in omni-channel, with limited online capability and absent the Merger [✂] **(see section 10 below for further detail)**; and

        (B)   PayPal has an omni-channel offering to smaller merchants but it is far from being able to compete strongly [✂].

    (iii)   The fundamental impact of the transaction is pro-competitive versus the counterfactual: it creates an opportunity to integrate the two parties' services into a cohesive omni-channel offer to smaller merchants. [✂] **(see section 11 below for further detail)**.

(iv) Any assessment of the Merger would need to trade off the clear and immediate efficiency benefits of integrating the two parties' offers into a cohesive omni-channel player serving smaller merchants against the speculative highly uncertain concern that both parties would overcome the challenges they would face in building such an offer unilaterally so that they could be expected to compete strongly with one-another in the future (and none of the myriad of other emerging and actual omni-channel competitors would be able to do the same). Furthermore, the assessment would need to account for the fact that any benefits from this putative potential future competition would by definition occur with a longer lag than the efficiency benefits of the Merger and be discounted accordingly.

2 The parties and the Merger

2.1 Details of each of the parties' businesses were provided in Phase 1 but, in summary, PayPal is a technology platform company that facilitates the processing of payment transactions. It is best known for its digital wallet service, which enables consumers and merchants to make payments online in over 200 countries.[2] PayPal also has a number of other activities, including PayPal Here, which provides merchants with the ability to take offline card payments. PayPal Here is active in the US, UK and Australia.

2.2 iZettle was launched in Sweden in 2010. It focused originally on a particular service: offering a convenient and cost-effective way for small merchants to accept offline card payments, and this remains its main business. It now provides services in a number of jurisdictions in Europe and Latin America, including the UK.

2.3 The Merger will allow PayPal to offer an improved offline card payment service in the larger number of jurisdictions in which iZettle is already active, with the potential for further expansion through cross-selling iZettle services to PayPal customers. In addition, and as discussed below in detail in Section 8, the Merger will allow PayPal to build its omni-channel offering to merchants by combining online and offline payment processing capability[3] – although, as explained below, this does not in itself equate to a full omni-channel service.

2.4 This Merger is, therefore, pro-competitive in combining complementary strengths of the two businesses, allowing a better combined omni-channel offering to be developed and offered to consumers than either could have achieved alone. [✂].

3 Payments in-store have changed significantly in recent times and the pace of change is quickening

3.1 Technology in the payments industry has evolved significantly in recent times and continues to do so, changing (and reacting to changes in) consumer and merchant behaviour in-store. Major developments include:

(a) the rise of card payments and the decline of cash, driven by the introduction of chip and PIN, with the associated rise in contactless payments, leading to the ability to take payments on the move;

(b) the revolution in mobile software that is leading to consumers no longer requiring plastic cards to pay and merchants no longer needing hardware at the point-of-sale to take payment (including as a result of the rise of marketplace apps taking payments directly for services, such as Uber and Deliveroo);

(c) the impact of the second Payment Services Directive, increasing scope for payments to be made directly bank-to-bank, avoiding the need to use (or have point-of-sale hardware to accept) a payment card at all; and

(d) finally, in those situations where a card is still presented, new technology for taking card payments is evolving and potentially replacing the existing options, including PIN on mobile and tap on glass, and even the possibility of biometric verification replacing PIN entry.

3.2 These developments are explored in further detail below:

The rise of card payments and the revolution in mobile software

3.3 The initial move away from the use of cash to the acceptance of cards demanded merchants have new hardware in-store. The pace of change increased in the UK when (as a result of security

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[2] This is based on the number of countries where consumers can make payments. There are fewer countries where merchants can accept payment.

[3] Together with the value-added services that are offered by iZettle's [✂].

concerns associated with card fraud) payment using chip and PIN became compulsory in the UK in early 2006. The requirement that a customer should be able to pay without letting a card out of his/her sight and the need for a customer to enter a PIN on a device rather than sign a receipt drove a movement towards payments being made in a more mobile manner (rather than always at the till) and this led to the development of a new range of portable point-of-sale (**POS**) devices which were distributed by the large acquirers. Since around 2014, the rapid rise in the use of contactless payments in the UK has reduced the time taken to pay for goods and added to the sense of mobility.

3.4   Reports now indicate that contactless payments are more popular than chip and PIN in UK stores.[4] Contactless payments have made it particularly quick and easy to make small payments using a card and have had a significant impact on the use of cash. This has further increased demand amongst merchants for services that allow them to accept such payments (which helps to reduce queue time – low value transactions, such as buying a coffee or a sandwich, can now be completed much more quickly with the tap of a card). Recent analysis suggests that 63% of the UK population now use contactless payments (with 3.4 million almost never using cash). Cash use is expected to continue to fall in popularity over the coming decade and, over the same period, contactless payments are forecast to more than double.[5]

3.5   At the time that contactless payments started to gain traction, a new range of devices (mPOS devices) were developed, aimed at serving the rapidly growing number of merchants seeking to accept card payments for the first time. At the time, these devices introduced a significant innovation in payment acceptance devices – an app.

3.6   The approach of splitting the merchant experience (located in the app) from the payment acceptance (located in the card reader itself) created scope for considerable innovation in the value-added software services that could be offered as part of the mPOS app. As a result, the major payment service providers and acquirers added mPOS devices to the portfolio of terminals they offer to merchants, and the current generation of non-mPOS terminals now implement a similar split approach to offer richer features and functionality such as tipping, charity donations and staff rostering as part of the product.

3.7   All of these developments have taken place against the background of a revolution in mobile software (and cloud-based software in particular). In the context of in-store payments, developments in mobile technology have rapidly moved on from mPOS-type solutions and are starting to remove the need for dedicated POS hardware to accept cards (and other emerging forms of payment) at all, whilst providing the merchant with access to a rich world of consumer loyalty data, employee performance measurements, real-time inventory stock-checking etc. All of these data elements are now available at a merchant's fingertips on their phone, tablet or laptop.

3.8   For consumers, mobile phones can now also act as mobile wallets (using systems such as Apple Pay, Samsung Pay and Google Pay) removing the need for any plastic card at all. In the same way, mobile apps are increasingly being accepted by merchants (some, like Starbucks, have their own proprietary app), allowing payment to be taken and loyalty points to be added simply by the merchant scanning the consumer's mobile phone.

3.9   Some marketplace apps no longer even require a merchant to scan the phone for face-to-face transactions. Many thousands of smaller merchants use Deliveroo, JustEat, Uber, MyTaxi etc. as a platform through which they sell products to consumers. On these marketplaces, an order is placed and paid for remotely by the consumer through the app and the merchant then delivers against that pre-paid order. The marketplace deals with taking the payment on the merchant's behalf.

3.10   Others just require the consumer to use the app to scan a barcode from the merchant (e.g. Wagamama has a system where the consumer scans a barcode using a QR reader and payment

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[4]   https://www.moneysavingexpert.com/news/2018/10/contactless-payments-now-more-popular-than-chip-and-pin/ and https://www.theguardian.com/money/2018/oct/16/uk-in-store-contactless-payments-overtake-chip-and-pin-worldpay.
[5]   https://www.theguardian.com/business/2018/jun/18/uk-debit-cards-transactions-overtake-cash-for-the-first-time.

is then taken through the MasterCard Qkr payment system).[6] Amazon is developing a system (Amazon Go) which will allow shoppers to check in with an app when entering a store and then take the items they want and leave. The app will deduct the payment automatically with no need for any checkout or scanning in store.[7]

A further significant change is coming – PSD2 and bank-to-bank payment apps – by-passing the card networks and, potentially, POS hardware

3.11   Today, therefore, card payments can be made and accepted in a number of ways. However, a further significant change in the payments world is on its way. The Second Payment Services Directive (**PSD2**) is opening up banking data to companies such as Google, Amazon, Facebook and Apple. Many predict this will result in the traditional card payment systems being by-passed completely in favour of direct bank-to-bank payments utilising the faster payments service.[8] It has been suggested that this was the rationale for Mastercard's recent purchase of Vocalink[9],[10] and the issue of potential competition in respect of customer-to-merchant payment solutions using the faster payments service was examined by the CMA in that merger. The CMA found in its decision (which was given on 4 January 2017, prior to the implementation of PSD2) that:

> "*The CMA cannot exclude that some companies in the payments industry may be considering using the opportunities offered by PSD2 and may even already have taken some actions towards the implementation of customer-to-merchant payment solutions that do not use 'card rails' and allow POS payments … In particular, a potential competitor stated that they have not yet taken any active steps in the UK to enter push payments but cannot exclude that they might do so (perhaps by entering into a partnership). This third party also acknowledged that PSD2 could have a significant impact in facilitating entry.*"[11]

3.12   Since then, MasterCard has already launched an app called Pay By Bank, and Elavon – the global acquiring processor and payment services provider – has recently announced that it will work with MasterCard to make this app available to merchants so that payments can be made by consumers using it online.[12] There is also a trial of the Pay By Bank app underway with WorldPay. Barclays (the owner of Barclaycard) has the Pingit app, which is being marketed at small merchants[13] and NatWest is trialling another pay-by-bank app with Carphone Warehouse.[14]

3.13   In fact this technology is already being adopted: PayM allows payments to be made to a mobile phone number without the need to share bank details.[15] It is offered by 15 major banks and building societies and can be accessed through their mobile banking apps. Over 4 million people have registered their mobile number to receive payments from PayM. It seems likely that in the near future these apps will be used for consumer-to-merchant transactions in-store on a regular basis as well as online. Indeed, for many merchants that are new to cards or only accept low payment volumes, such a solution is likely to be considered more of an equivalent to accepting cash (in that it will allow for immediate transfer of funds with no need for interchange fees) than having to obtain a card reader and/or an acquiring bank relationship in order to accept cards.

3.14   As an example of the sort of development that one might expect in the UK in the near future, in the Nordic countries, Danske Bank has successfully launched MobilePay, which makes use of its banking network to provide direct payment services aimed at the small and micro merchant.[16] Swish – originally formed by a consortium of Swedish banks – was developed as a way for

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[6]   This solution has also recently been deployed to allow for charitable donations to be made to the homeless. See https://www.telegraph.co.uk/news/2018/08/08/homeless-people-wearing-barcodes-new-project-increase-donations/.

[7]   https://www.amazon.com/b?ie=UTF8&node=16008589011

[8]   Already over 230,000 Faster Payments are sent every hour, on average. See http://www.fasterpayments.org.uk/celebrating-10-amazing-years-2008.

[9]   https://www.finextra.com/newsarticle/33069/mastercard-bids-to-bypass-own-rails-with-pay-by-bank-app-promotion.

[10]   https://newsroom.mastercard.com/eu/2018/01/15/moving-the-payment-landscape-forward-at-speed/.

[11]   Paragraphs 231 and 232 of the CMA's decision in the Anticipated acquisition by Mastercard UK Holdco Limited of VocaLink Holdings Limited (ME/6638/16), 4 January 2017.

[12]   https://www.elavon.co.uk/about-elavon/newsroom/2018/elavon-continues-to-invest-in-alternative-payment-methods-with-pay-by-bank-app.html.

[13]   https://www.pingit.com/business/.

[14]   https://www.finextra.com/newsarticle/32241/natwest-taps-open-banking-for-cardless-online-payments.

[15]   https://paym.co.uk/.

[16]   https://www.mobilepay.dk/about.

individuals to transfer money between themselves instantly and at no cost by using a mobile app (similar to Barclays' Pingit) but has evolved into a significant method of payment for consumer-to-merchant transfers. Both these examples have direct relevance to the UK because conditions in the UK now reflect those in Denmark and Sweden – faster payments have now been rolled out allowing instant transfers, PSD2 is creating a regulatory push for bank-to-bank payments that by-pass the card networks and there is a rapidly growing awareness of this technology amongst UK consumers through services such as PayM, driven by well-resourced banks that have a lot to gain from making this a success.

POS card readers are only one of many ways to accept payment in-store – they are under threat and must evolve

3.15   In such a rapidly-evolving world, where consumers are being given more and more choice about how to make payments, the existing range of POS card readers is only one of several solutions available to merchants when seeking to take consumer payments. However, even if one were to focus on POS card readers only, there are significant technological developments taking place. By necessity, such devices will need to change and suppliers will need to innovate in order to remain relevant in a world where there is such choice available to consumers as to how to pay.

3.16   In-store, currently, card payments can be accepted through non-mobile (utilising a fixed line connection to a payment network) or mobile card readers. Mobile card readers are either linked to the payment network through wifi or an inbuilt SIM (together with non-mobile devices, referred to in the Decision as "**non-mPOS devices**") or use a Bluetooth connection to a mobile phone or tablet, which then create the link to the network (referred to in the Decision as "**mPOS devices**"). The parties will continue to use the Decision's terminology for ease in this response but think it is confusing. As is apparent from the description above, mobile "non-mPOS devices" are very similar to mPOS devices (the technology for both was developed to allow payment to be taken away from a fixed till to reflect broader consumer and merchant need, as explained above).[17] As a result, describing mobile non-mPOS devices as "non-mobile" is misleading. The only technical difference between the two approaches is how the device connects to the network. In all other respects, the devices provide the same payment service – once a transaction is delivered onto a merchant's system, it is carried across existing card payment rails through processors/gateways and acquirers in exactly the same way.

3.17   As noted above, these devices are having to evolve. In 2017, Square (a company in which the Visa card scheme has a shareholding) entered the UK with a new mPOS card reader that had no display or PIN pad. The reader is designed to allow contactless payments in the ordinary way (by "tapping" on the reader) but, if a PIN entry is needed, the customer enters the PIN on the merchant's mobile and the card payment software exists not in the reader or the merchant's mobile, but in a secure cloud computing service accessed by the merchant's mobile (a so-called "PIN on glass" or, more accurately, "PIN on mobile" solution).

3.18   As has traditionally been the case with new payment technology, this solution was launched on the basis of a waiver (allowing it to be piloted in the UK to a limited number of users) prior to the Payment Card Industry (**PCI**) Security Standards Council announcing the publication of its Software Based PIN Entry on Commercial Off-the-Shelf Devices (**COTS**) standard in January 2018.[18] Even while only being able to offer the product under this waiver, Square has built a significant merchant customer base in the UK, [✂] as the Decision noted at paragraph 125(d).[19]

3.19   With this technology now the subject of a standard, Square is free to obtain certification against the standard and launch their "PIN on mobile" offering more widely (this is expected to take place soon) and other suppliers can also launch new payment acceptance solutions using this standard. For example, there are rumours that First Data – a major acquirer – is working with Ingenico (a leading POS terminal/device vendor) to launch a "PIN on mobile" card reader that is a direct rival

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17   Annex 1 provides some examples of both of these types of device and illustrates how similar they are.

18   https://blog.pcisecuritystandards.org/new-pci-software-pin-entry-on-cots-standard.

19   Square's entry into the UK, with a transaction fee rate of 1.75%, appeared to force a reactionary change in pricing from SumUp and iZettle (see the analysis in paragraphs 5.20 and 5.22 below).

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to Square.[20] Moreover, a software company based in the UK – myPINPad[21] – launched Open mPOS in July 2018, which allows payment processors and acquirers to deploy "PIN on mobile" solutions that will be fully compliant with the new PCI standard,[22] having already launched a European partnership with Ingenico to develop a "PIN on mobile" solution for micro merchants.[23]

3.20 However, even before "PIN on mobile" has fully been introduced, a further generation of mobile POS solutions are already in the process of being launched in the UK. Suppliers are now already piloting (under a waiver pending a new standard being developed by the PCI Security Standards Council) a new "tap on glass" solution, which allows consumers to pay by tapping their payment card onto the merchant's mobile directly. This solution introduces an additional type of mobile communication technology to compete with solutions utilising wifi, SIM and Bluetooth connections, in that this solution requires no separate card reader at all and therefore no connection between the card reader and a device linked to the payment acquiring system (in other words, a further evolution of POS devices).

3.21 WorldPay is currently running a "tap on glass" pilot in the UK targeted at small and micro merchants that take low value contactless payments.[24] Outside the UK, Mobeewave, in partnership with National Bank of Canada, has launched a "tap on glass" solution in Canada aimed at SMEs.[25] Mobeewave has also recently piloted a similar scheme in Poland, this time in partnership with MasterCard.[26] The standard for this solution is being defined and one might expect certifications to start to take place within the next couple of years. Such technologies could represent a step change in the economics of rolling out card acceptance as they would eliminate the need to distribute card readers and their associated monthly fees (or typically heavily subsidised upfront prices).

3.22 Industry experts also point to the possibility of biometric verification replacing PIN entry in the near future (for example, Apple utilising its face recognition technology introduced in the iPhone X on Apple Pay), which, again, will do away with the need for POS hardware and may enable Apple, as an example, to launch a proprietary payment app.

Conclusion

3.23 All of these developments mean there is (and will continue to be) a broad choice of payment acceptance solutions available to merchants of all sizes when considering how to take payments from consumers. The technology also means that payment service providers have significant scope for new entry and innovation, combining cheaper hardware (or no hardware at all) with more sophisticated software solutions to deliver what merchants need. As consumers continue to switch away from cash in ever-increasing numbers, large players such as Amazon and Apple, as well as the banks, card schemes and large acquirers are showing increasing interest in developing new solutions as the size of the opportunity continues to grow. It is anticipated that the value of total mobile POS transactions in the UK will double in volume between 2017 and 2019 and quadruple by 2022.[27]

3.24 In all its consideration of the Merger that follows, the CMA should bear in mind this context when analysing the likely effects of this Merger. The Merger is not about trying to entrench a strong position in any particular market or segment in the UK nor is it aimed at creating or protecting some form of unmatchable product offering. On the contrary, it is driven by the rapidly evolving technology that is dramatically affecting consumer payment behaviour through a mass movement away from cash to various forms of card and digital payments, the significant changes in merchant needs as a result and the myriad sources of significant competition that PayPal faces from well-resourced players in the payments and technology arena – it is a question of PayPal running to

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[20]   https://www.ingenico.com/press-and-publications/press-releases/all/2018/02/ingenico-group-innovates-for-micro-merchants-with-a-pin-on-glass-solution.html.
[21]   https://www.mypinpad.com/.
[22]   https://www.mypinpad.com/mypinpad-launches-open-mpos-platform-for-pin-on-mobile/.
[23]   https://www.mypinpad.com/2018/02/
[24]   https://www.worldpay.com/uk/sme/phone/my-business-mobile.
[25]   http://mobeewave.com/en/2018/06/21/national-bank-launches-easy-pay-a-mobile-point-of-sale-solution-enabling-canadian-smes-to-accept-contactless-payments/.
[26]   http://mobeewave.com/en/2017/08/31/why-mastercard-is-powering-contactless-payments-in-poland/.
[27]   Juniper Report, Annex A.03 to the Merger Notice, tab "POS Market Summary".

keep up with the pace of change in this growing industry rather than creating a position from which it can sit back and exploit existing offerings.

4   Small merchants consider a wider range of options than just mPOS

4.1   In the Decision, one of the frames of reference for considering the transaction was the supply of payment services via mPOS devices only.[28] For all the reasons set out in section 3 above, the significant developments that are taking place in payments more broadly mean that such a frame of reference will lead to an overly narrow focus and fail to appreciate the dynamic competitive context for this Merger.

4.2   However, even leaving aside these developments, the Decision's frame of reference was overly narrow because, in the parties' experience, non-mPOS devices represent a valid alternative for most, if not all, merchants that might consider taking an mPOS device. In their day-to-day sales activity, the parties see smaller merchants choosing non-mPOS solutions over mPOS devices all the time.

4.3   In addition, driven by improvements in technology and the need for POS hardware to evolve to reflect consumer and merchant needs, there has been a convergence between the offerings of mPOS and non-mPOS devices. Please see Annex 1 for examples of different mPOS and non-mPOS products and how similar they look in practice. A good example is the new Miura M020 reader, which is being marketed as "*a low risk modular approach with many innovative plug and play peripherals to empower retailers in any payment environment*". This trend is only expected to increase as new payment technologies drive new payment solutions for merchants – for example, the "tap on glass" solution currently being piloted by WorldPay, which is another evolution of POS options.

4.4   To the extent there are some differences in commercial terms or technical specifications, small merchants see these as comparable solutions not because they are identical in all respects, but because they provide options for merchants to make choices based on their diverse and changing preferences.

4.5   In fact, small businesses are well served by non-mPOS providers today. Overwhelmingly, smaller merchants choose to take a non-mPOS solution to accept payments in-store. It is estimated that there are approximately £51 billion of transactions annually in-store by smaller merchants.[29] Whatever source is used for the volume of mPOS transactions it is clear that the vast majority of small businesses (most likely well in excess of 90%) make use of non-mPOS solutions to accept card payment.[30] The major acquirers (including Barclaycard and WorldPay) account for two-thirds of this volume. The parties, on the other hand, would account for only [✕] of the total volume of transactions accepted by smaller merchants in-store.[31]

4.6   The role of intermediaries in marketing alternative options to small businesses should not be underestimated. Independent Sales Organisations ("**ISOs**") are suppliers that sometimes work with acquirers such as WorldPay, Barclaycard, Global Payments and First Data but also drive sales of devices on their own account to small and medium-sized businesses. Those ISOs (such as Paymentsense) actively market non-mPOS devices to small merchants, including mobile devices specifically targeted at merchants on the move ("cabbie, courier or carpenter").[32] These

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[28]   Decision, paragraph 71.
[29]   In line with the approach in the Merger Notice total SMB card payments for 2017 are estimated to be [✕], based on the [✕]. To obtain offline only sales, we combine Statista data on SMB online commerce sales (https://www.statista.com/statistics/305916/b2b-and-b2c-e-commerce-sales-by-business-size-uk/) for 2016 [✕] which are assumed to have grown [✕] in line with IMRG and Capgemini forecasts https://www.imrg.org/media-and-comment/press-releases/uk-online-sales-in-2016/.
[30]   The Decision's shares of supply in the mPOS segment imply total TPV through mPOS devices of [✕] (which, assuming all of this was accounted for by small businesses) would imply 96% of card payment volume for small businesses was accounted for by transactions through non-mPOS devices. For the reasons discussed in paragraph 5.2 below the parties consider that the Decision's estimate of total TPV through mPOS devices is understated but, even if one uses a more reasonable estimate of [✕] (a figure which will include some transactions for large merchants) it is clear that the vast majority of SMBs make use of non-mPOS solutions.
[31]   Merger Notice, Table 8.
[32]   https://www.paymentsense.co.uk/card-machines/mobile.

providers are dedicated to working with smaller merchants – evidence in itself of the value of non-mPOS solutions to these merchants. Paymentsense, for example, cites over 70,000 small business customers in Britain and Ireland (comparable to PayPal Here's [✕] active merchants in 2017).[33] The competition they represent can also be seen from the fact that [✕].[34]

4.7 We consider below the different factors that might be relevant to how a merchant chooses their preferred card reader (bearing in mind that other solutions – as set out in section 3 – are also starting to be considered by merchants) and provide further detail on the convergence in the commercial and technical propositions offered for the supply of non-mPOS and mPOS devices.

Transaction volume is not the sole factor in whether a merchant chooses mPOS or non-mPOS

4.8 While there are some merchants who will prefer mPOS solutions to non-mPOS solutions, in the experience of the parties, this is a reflection of a whole host of characteristics, not just transaction volume and price (which the Decision focussed on unduly, to the exclusion of other relevant factors). For example, the precise device and contract terms that might be most attractive to a merchant may also depend on:

(a) the required "life" and reliability of the device (battery life on some mPOS devices can be quite short and, overall, such devices have a relatively high failure rate);

(b) how reliable their mobile network connection is;

(c) whether the merchant has a tablet or smartphone that can be dedicated to taking payments (and potentially used for this purpose by a number of staff);

(d) whether the merchant wants customer support 24/7 and help installing the system;

(e) how familiar they are with technology (particularly Bluetooth);

(f) the ability of the device to integrate with their sales software package (such as Vend, Lightspeed, Intuit or NCR/Silver);

(g) whether their customers generally need a physical receipt (in which case a non-mPOS device with built-in printer will be considerably more attractive);

(h) whether they want customers to have the ability to add tips;

(i) whether it is practical for the merchant (such as a delivery driver) to handle two devices (i.e. a tablet and card reader);

(j) how predictable/seasonal their business is;

(k) value-added POS services offered; and

(l) time to take a payment and for funds to be transferred to the merchant's bank account.

4.9 The significance of many of these factors is more influenced by the industry in which the merchant operates rather than its size – for example: mobile non-mPOS devices are often used in taxis because physical receipts are frequently required; a coffee shop may value reliability and the ability of a device to integrate with their till software/system; a tradesperson is likely to value reliability, sturdiness and good battery life to ensure payments can be taken at any point during the day (even if that is only once or twice).

4.10 The fact that there are many factors (other than size) that determine demand for a particular payment solution is demonstrated by the fact that, on the one hand (as set out above),

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[33] https://www.paymentsense.co.uk/blog/card-payment-systems/.
[34] See iZettle's response to the Phase 1 s109, document 059.

approximately 90 % of SMB customers appear to take a non-mPOS solution to accept payments offline and, on the other, increasingly, medium-sized and large retailers are using mPOS devices as part of the continued drive to reduce queue waiting times and move away from fixed tills. It is also underlined by the fact that (as set out in previous submissions) the parties' churn data shows non-mPOS players collectively accounting for a material proportion of customer switching.

4.11   The narrow frame of reference in the Decision is largely driven by a view that smaller merchants prefer mPOS. [✕] customers are frequently referred to in the Decision as sub-segments of that smaller merchant base.[35] For the reasons given above, smaller merchants have a far more complex set of demands than this and this has resulted in changes in offering by mPOS and non-mPOS suppliers. While it may be true that some merchants prefer mPOS, it would be an over-simplification to attribute that solely to the size of the merchant when so many other characteristics matter, often far more.

4.12   Indeed, this is reflected in the fact that while the Decision focuses on these categories of smaller merchants, such terms are not commonly understood in the industry. To the extent the parties categorise merchants by size for internal tracking purposes they use different terms, based on [✕] – indicating again that references to [✕] are not a standard or particularly meaningful approach.[36]

Reacting to merchant demand, there is a convergence of competitive offering between mPOS and non-mPOS

4.13   One of the reasons in the Decision for focussing on the supply of mPOS devices only was the view that, for smaller merchants, the cost and flexibility of using an mPOS device were likely to be materially more attractive and less risky than using a non-mPOS device (which, with their combination of lower transaction charges and a monthly fee, would typically be more expensive from the point of view of the smallest merchants). This was considered to be particularly true for "*those with low annual TPV or those with seasonal businesses that do not need to accept card payments throughout the year*".[37]

4.14   For the reasons already examined, categorising demand from smaller merchants in this way risks over-simplification. It also implicitly assumes that the merged entity would have the ability and incentive to tailor its pricing terms to individual merchant groups something which, as is discussed further below, is unlikely to be the case in practice due to the strong incentive to adopt simple "flat" pricing schemes.

4.15   However, even if one were to focus on a comparison of the commercial offers for the supply of non-mPOS and mPOS devices to smaller merchants only, in recent times, in reaction to merchant demand, suppliers of non-mPOS devices have altered their offerings to compete with the commercial terms being offered by mPOS suppliers. They now offer a wider range of payment and contractual options, have adopted online marketing campaigns[38] and reduced average onboarding times to a standard of 5-15 minutes. In addition, continued advances in technology are blurring the distinctions between different types of card reader device.

4.16   The convergence in commercial offering between non-mPOS and mPOS devices is well illustrated by SumUp, an mPOS provider that supplies many smaller customers, which has recently launched a 3G reader with a built-in SIM. This is the exact same technology deployed by all suppliers of non-mPOS devices (as it does not rely on the merchant having a separate mobile or tablet connected via Bluetooth and so is not an mPOS device).[39] SumUp is selling this device for a one-off charge (£99) and for use on a "pay as you go" contract (for the same

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[35]   Decision, paragraphs 72-78.
[36]   Compare, for example, PayPal's approach in Annex 9.05 to Merger Notice to that of iZettle in document 116 of Phase 1 s109 response.
[37]   Decision, paragraph 61.
[38]   See for example the WorldPay, Paymentsense and Barclaycard online advertising included in paragraphs 79-80 of the Issues Paper Response.
[39]   https://sumup.co.uk/3g-credit-card-reader/.

transaction fee as is applied to their mPOS device – i.e. 1.69%).[40] In other words, even mPOS suppliers recognise that smaller merchants also demand non-mPOS solutions.

4.17   An example of this effect in practice from the opposite perspective is WorldPay's new "Simplicity" pricing plan, which mimics the traditional mPOS approach of a single flat transaction fee for all transactions (of 1.5%) for a non-mPOS card reader (although a monthly rental fee still applies) and is offered as an alternative to a "pay as you go" option.[41] A similar approach is followed by other providers – Barclays, for example, quotes both "classic" (different fees for different card types) and "simple" (a single flat rate) approaches to transaction fees for its non-mPOS card readers.[42]

4.18   For almost all merchants, the prices and contract terms for non-mPOS devices are likely to be a serious alternative to mPOS devices (as was demonstrated by the parties in response to the Issues Paper in Phase 1).[43] In addition, in practice, even the smallest or [✂] merchants (for whom the Decision identified that non-mPOS solutions may be more costly) often make their choice based primarily on other factors – such as those listed in paragraph 4.8 above and the added features that often accompany a non-mPOS offering (customer support services, ability to print receipts etc.) means that non-mPOS solutions may be better suited to the needs of merchants (which is why even these smallest merchants churn to [✂], as noted in paragraph 183 and Tables 2 and 3 in the Issues Paper response).

4.19   It is also worth noting that customers with a monthly TPV of £1500 or less (which the Decision appeared to view as [✂]) are very small. Monthly transaction volume of £1500 equates to total annual turnover of £18,000. Assuming even a very healthy 50% margin, the total income received from face-to-face card payments in such a business would be less than £10,000. Many of these businesses are likely to be hobbyists, seasonal businesses or a particular segment within a much larger business (e.g. sales at trade fairs). Such businesses can be expected to rely on cash payment for a significant proportion of sales and may not view card payment as a necessary part of their operations.

4.20   Although cash is a means of payment that is in rapid decline, for some merchants, commonly those at the smallest end of the scale, whether or not to take card payments at all is a valid question and, as such, the cost of processing card payments is constrained by the cost of processing cash payments or taking payments using bank transfers. It is not the parties' position that merchants who have started taking cards would likely switch back to cash in response to a small price increase – the parties agree that this is unrealistic in many cases in practice.[44] Instead, the parties regard cash and bank transfers (and other emerging payment methods) as a constraint at the point of acquisition of a customer, especially given the principal source of new customers for the merging parties is new-to-card merchants – i.e. those most potentially sensitive to this issue.

4.21   This is important because, in a fast-growing sector, rapid customer acquisition is crucial to a provider's success as they seek to "grow with their customer" (larger customers deliver greater TPV and, therefore, greater revenues). Indeed, Square actively market themselves on this basis: "*The point of sale system designed to grow with you*".[45]

4.22   In this regard, the parties' customer-level data show [✂] the importance of attracting the smallest customers – tomorrow's medium and large customers – for the parties' businesses.

4.23   The merging parties therefore have every incentive to maintain low prices for entry level merchants so as to capture [✂]. If the upfront price associated with taking card payments increased (through, for example, an increase in card reader prices) or the ongoing costs increased or became more complex, the risk is that some merchants may postpone taking card payments

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[40]   https://sumup.co.uk/credit-card-processing-pricing/.
[41]   https://www.worldpay.com/uk/sme/pricing/simplicity?utm_source=homepage&utm_medium=banner&utm_campaign=simplicity
[42]   https://paymentsapply.barclaycard/#/product-selector.
[43]   Response to the Issues Paper, Figure 9 on page 16.
[44]   Decision, paragraphs 79-80.
[45]   https://squareup.com/gb/en/2018/pos.

for the time being. Given the [✂]⁴⁶ and [✂] failure to activate a card reader once purchased (a rule of thumb is that around [✂] of readers sold are never used) among smaller merchants, a slowdown in customer acquisitions could be highly damaging for a provider, particularly as alternative low-cost means of accepting payment are likely to emerge in the near future that either significantly reduce the cost of hardware (e.g. "PIN on mobile" and "tap on glass") or do not use card networks at all. Such technological developments are likely to be particularly well-suited to the smallest merchants and make them a more attractive segment of the merchant customer base to serve.

Conclusion

4.24   As demonstrated above, non-mPOS devices represent a valid alternative for the vast majority, if not all merchants that might consider taking an mPOS device. Fundamentally they provide the same service and, driven by improvements in technology and the need for POS hardware to evolve to reflect consumer and merchant needs, there has been a convergence between the offerings of mPOS and non-mPOS devices. These card readers are used interchangeably by many different sizes and types of merchant – the precise choice being influenced by a host of factors, many of which are more related to industry than size – and current planned developments in payment acceptance (such as "PIN on mobile" and "tap on glass") are only likely to increase this convergence.

5   Even if mPOS is looked at narrowly, competition remains effective

5.1   For all the reasons already given, a narrowly focussed review of competition for the supply of mPOS devices would fail to account for the wide range of existing and developing methods of accepting payment that merchants of all sizes can choose between and the significant convergence in competitive offerings of non-mPOS suppliers. However, even if a narrow focus is maintained, the Merger would not lead to a substantial lessening of competition for three main reasons:

(a)   the 2017 shares of supply relied on in the Decision are inaccurate and, more fundamentally provide a misleading static picture which fails to account for current and future trends – app download data (a proxy for customer acquisitions) [✂] show that SumUp has grown significantly in 2018, approaching the levels achieved by iZettle, and that Square drew level with PayPal Here in Q4 2018;

(b)   the parties are not each other's closest competitors; and

(c)   there are many other providers that are already significant competitors or are well placed to enter or expand their supply of mPOS devices.

These points are considered in turn below.

(a)   Shares of supply

Inaccuracies in the shares of supply relied on in the Decision

5.2   Setting aside the fact that focussing on mPOS transactions and relying on static shares of supply is likely to be misleading, the historic 2017 shares of supply relied on in the Decision are incomplete since they do not account for the entirety of UK mPOS transactions:

(a)   A clear indication that the shares are incomplete is that they do not include transactions from a number of major merchants which use mPOS.⁴⁷ To give one prominent example, the reported market size (apparently in the region of [✂]) suggests that the calculations

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⁴⁶   See analysis below in paragraph 5.6.
⁴⁷   While the parties recognise that the Decision's concerns around the transaction were focussed upon smaller merchants, the mPOS shares of supply in the decision were intended to capture the entirety of mPOS transactions and so the fact that they exclude material volumes of transactions in relation to larger merchants should be considered when deciding how much weight to place upon these figures.

must exclude transactions at Apple's retail stores, which rely upon mPOS solutions to take payment. Based on publicly available information, the Parties estimate that card turnover associated with the UK Apple stores alone is likely to be £1.2bn to £1.6bn,[48] a sum which is [✂] the "market" size reported in the Decision and significantly bridges the gap between the value of mPOS transactions reported in the Decision and those estimated by the Juniper report submitted by the parties in Phase 1.

(b) There are other large retailers which also use mPOS for some or all of their payments (such as some brands in the Arcadia group, various train operators for onboard catering, Harvey Nichols, Mulberry, and Superdry). Including the transaction volume associated with these merchants would lead to a material increase in the total value of mPOS transactions and likely significantly increase the size of suppliers such as Worldpay, which are likely to currently under-record the volumes of transactions flowing through its mPOS technology used by larger retailers as unless acquirers have provided, and tracked, the mPOS terminal themselves, requests for authorisation from mPOS and POS terminals are indistinguishable.

(c) Nor do the share of supply figures in the Decision include revenue achieved through white label mPOS solutions (e.g. supplied by Payworks – who support POS software vendors that also offer payment solutions, such as cab:app – or merchants integrating handsets bought direct from hardware manufacturers).

5.3 Taken together, the parties estimate that including the turnover of large merchants and white label solutions would increase the total 2017 value of mPOS transactions from [✂] (as found in the Decision) to something closer to, and potentially in excess of, [✂][49].

5.4 Further, there are two specific concerns regarding the Parties' figures:

(a) PayPal Here allows merchants the option of keying in a transaction (i.e. processing a "card not present" transaction) as well as using the card reader function. These "card not present" transactions are typically used for internet or other remote (e.g. telephone) sales – i.e. they are generally not offline sales. This has the effect of reducing PayPal Here transaction volumes by almost [✂].[50]

(b) PayPal Here's figures include large retailers, such as [✂]. This would tend to overstate PayPal Here's share of mPOS transactions in the Decision given, as noted above, that large retailers using mPOS solutions provided by the traditional players appear to have been excluded from the figures supplied to the CMA. Similarly, iZettle serves a number of large merchants such as [✂], which accounted for [✂] of 2017 TPV.[51]

Historic shares of supply are of limited value where supplier positions can change rapidly – this is demonstrated by 2018 app download data which shows significant variations to 2017 shares of supply and, in particular, rapid growth by SumUp

5.5 More fundamentally historic shares of supply are not a good measure of a supplier's market power where the supply of a product is characterised by significant technological development, emerging new methods and devices for accepting payment, and a rapidly growing and complex merchant

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[48] This estimated range is based on calculating the worldwide revenue of Apple's retail business, assessing the average revenue per store worldwide, and then applying this average to Apple's 38 locations. Having estimated Apple's UK retail revenues, the level of card revenue (all of which is, to the parties' knowledge, conducted via mPOS devices) is then assumed at between 70 and 90% (a conservative range in the Parties' view given the big ticket nature of Apple sales which implies cash transactions are likely to be at a minimum). As a cross-check, the parties compared their estimate of $61.6m revenue per store with a 2012 Business Insider article which reported that, as of 2012, Apple Stores achieved an average revenue of $49.5 million: https://www.businessinsider.com/apple-store-facts-2012-6?r=US&IR=T.

[49] Calculated based on the mid-point of the 80-90% share in the Decision and the parties' combined TPV of £ [✂].

[50] iZettle does not offer such a service and [✂]. The parties note that Square offers a similar service to PayPal Here but that it is implemented via Square's online "virtual terminal". The parties' strong expectation therefore is that these transactions would not be included in the face-to-face TPV figures used in the share of supply tables in the Decision and that it is therefore appropriate to remove PayPal Here's key in volumes in order to ensure only face-to-face transactions are incorporated (ensuring the assessment of each competitor is undertaken on a like-for-like basis).

[51] [✂].

base with high levels of churn. The latter is an important factor. Churn rates are significant for both parties. The data show [✂] of customers each month becoming inactive (i.e. not taking any card payments).[52] In addition to this, in each month the same proportion again can be expected to become inactive for a shorter period of at least three months. [✂] which are apparent from the analysis of new customer acquisitions set out in paragraphs 5.7 onwards below).

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[52]   These figures identify a customer as having churned in a given month if, during that month, a customer's period of inactivity moves beyond 12 months in total.

[✂]

[✂]

Source: CRA analysis of iZettle and PayPal data

5.6   These [✂] imply a need to constantly acquire new customers to retain a given level of TPV and illustrate the negligible level of switching costs faced by consumers.[53] This suggests that current or historic market shares will not provide an informative basis to assess market power and that it is more informative to consider acquisitions of new merchants and likely future developments to assess the relative strength of suppliers.[54]

5.7   The potential for fast changes in shares of supply (which supports the conclusion that they should not be relied upon to measure market power) is illustrated by comparing app download data for 2017 and 2018. While there are important deficiencies with app download data which mean it is unlikely to provide a reliable measure of shares of supply at any particular point in time, app download data is a strong indicator of *trends* in supplier strength – showing the current levels of adoption of different products. The relevant figures for the main mPOS providers are included in the table below:[55]

	[✂]			Phase 1 Decision acquisition shares
	2017	2018	2018Q4	2017
PayPal Here	[✂]	[✂]	[✂]	20-30%
iZettle	[✂]	[✂]	[✂]	50-60%
Parties Combined	[✂]	[✂]	[✂]	80-90%
SumUp	[✂]	[✂]	[✂]	10-20%
Square Inc	[✂]	[✂]	[✂]	5-10%
Barclays Bank	[✂]	[✂]	[✂]	0-5%
WorldPay	[✂]	[✂]	[✂]	0-5%
Total	100%	100%	100%	

Source: CRA analysis of AppAnnie and parties' data and Phase 1 decision

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[53]   Merger Notice, paragraphs 196-201.
[54]   The Decision seemed to agree with this view – see paragraph 127(a).
[55]   As will be explained in more detail in response to the market questionnaire, because PayPal Here has a prominent consumer facing business (in 2018 PayPal's main consumer facing app had more than 20 times more UK downloads than did PayPal Here), it is likely that the PayPal Here app is downloaded accidentally on a regular basis by those seeking the consumer app. As a result, PayPal has significantly fewer activations per download than iZettle. Compared to iZettle, PayPal Here downloads are therefore likely to overstate PayPal's share of new activations by a [✂] in 2018 and more in 2017. Given that Square and SumUp do not have other major apps, downloads of their apps are likely to reflect their share of customer acquisitions relative to iZettle. Barclaycard app data may suffer from a similar issue to that associated with PayPal. To correct for the presence of accidental downloads, the figures presented here adjust the PayPal Here downloads data to approximately equalise (compared to iZettle) the number of activations per download. Absent this adjustment (which the parties consider is necessary if the share of PayPal Here is to be at all meaningful) PayPal Here's share would be somewhat higher in Q4 2018 ([✂]), but the decline in share since 2017 would be even more dramatic than is shown in the table.

5.8   The parties combined app downloads accounted for [✂] of total mPOS app downloads in 2017 (falling to [✂] in Q4 2018).[56] This compares to the Decision's estimate that the Parties accounted for 80-90% of newly-acquired TPV in 2017.[57]

5.9   More important than the level of shares, however, are the trends during 2018. This shows that PayPal Here's share of new customer acquisitions is declining, and that it has been overtaken by SumUp which has grown rapidly since 2017. SumUp is now the closest challenger to iZettle's leading position. By Q4 2018, Square was also at the same share of downloads as PayPal Here. On a forward-looking basis, therefore, the parties combined position is considerably less strong than appears in the Decision, with PayPal Here only the third or fourth most popular player (and trending downwards) even on the basis of the Decision's overly narrow frame of reference.

5.10   A further indication of these trends is provided by the preliminary results of iZettle's ordinary course of business churn survey for Q4 2018.[58] The results for completed surveys (as at when the data were accessed on 3 January 2019), summarised in the table below, are consistent with PayPal Here having significantly fallen behind the leading mPOS providers and with SumUp, in particular, growing strongly. They also indicate that, as in previous churn surveys, non-mPOS players collectively account for a material share of switching.

5.11   While this is admittedly based on a small sample of 29 respondents,[59] [✂] reported switching to [✂],[✂], to [✂], and [✂] to non-mPOS players [✂] [60] [✂].[61] Just [✂] reported having switched to PayPal Here [✂] [62]

[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]

5.12   These trends are consistent with [✂] compared with its competitors – [✂]. Given that Square's performance has likely been held back by regulatory factors, which, it is anticipated, will be resolved in the near future once Square certifies its device against the PCI standard issued during 2018 (see paragraph 3.19 above), [✂].

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56   Note that the shares in the table are likely to overestimate shares for mPOS as a whole because they exclude other competitors and white label mPOS solutions. These shares also take no account of transaction volumes and so are likely to overstate the strength of PayPal given PayPal's merchant profile (for the reasons explained in footnote 55 above, it is possible that Barclays' share is also overstated due to accidental downloads - however, given Barclays relatively small share, this is unlikely to affect the findings materially).

57   Decision, paragraph 109.

58   PayPal Here's equivalent ordinary course of business churn survey has not yet entered the field.

59   Respondents who reported remaining in business and using an alternative payment provider to iZettle.

60   The reason one respondent gave for moving to [✂] is as follows: [✂][✂]

61   The table reports 29 customers because some respondents reported using multiple alternative providers. Consistent with previous submissions, the Parties in this case counted a respondent multiple times.

62   [✂].

5.13   The formidable nature of Square as a competitor and the speed at which it can grow its customer base in a particular country is illustrated by what has happened in Australia. After launching in March 2016, Square [✂] after just a few months and has now become the leading mPOS provider in Australia (as is illustrated by the graph below).

[✂]

[✂]

Source: CRA Analysis of App Annie downloads data for Australia.

5.14   In the US (the other major country where PayPal Here and Square co-exist) Square, which entered the US earlier than PayPal Here, is the significantly larger player based on app downloads and, if anything, this gap has been widening as PayPal Here downloads have been declining since the beginning of 2017 (a picture which is also apparent in the Australian data above).[63]

5.15   The fact that conditions in the UK allow for significant shifts in competitive position is illustrated by an analysis of what might have led to SumUp's rapid rise in new customer acquisitions in 2018. In September 2017, SumUp reduced its transaction fee from 1.95% to 1.69%, making it the cheapest mPOS provider (undercutting iZettle and Square at 1.75%). There was a large increase in app downloads for SumUp after this reduction in transaction fees. At the same time as SumUp reduced its pricing, iZettle simplified its pricing. This simplification, which reduced prices for some merchants (including smaller merchants) also appears to have been successful in attracting new customers to iZettle. Since the iZettle and SumUp changes happened more or less contemporaneously, it is not possible to statistically distinguish the impact of the two events from each other. Nevertheless, it is possible to look at the joint impact of both of these changes in the graph below:

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[63]   CRA Analysis of App Annie downloads data.

[✂]

[✂]

Source: CRA analysis of AppAnnie data.

5.16 Using a simple time-series regression, SumUp's performance can be assessed relative to a counterfactual of it not having changed its pricing. Using this analysis, it can be seen that SumUp's downloads were about [✂] higher than they would have been had previous trends continued. Given transaction fees fell by around 13%, this is consistent with SumUp facing a medium run price elasticity of around [✂] - that is to say, demand for mPOS devices appears to be highly elastic with respect to transaction fees.[64]

5.17 Whilst any estimate based on time-series data will be subject to considerable uncertainty, overall this data is consistent with new mPOS sign-ups being highly responsive to price changes and indicate that a competitively priced supplier (whether a new entrant or one seeking to expand) can quickly gain share.

5.18 In conclusion, the historic share of supply figures set out in the Decision underestimate the full volume of transactions that pass through mPOS devices. However, more fundamentally, they provide a misleading measure of the strength of suppliers where the positions of those suppliers can change so quickly. SumUp is a good example of how a player can grow very quickly, having rapidly increased its share of new customers acquired following a price cut. A more relevant measure of strength of suppliers is to consider trends in new customer acquisitions. In that respect, PayPal Here [✂], having been overtaken by a rapidly expanding SumUp and Square, which is anticipated to significantly increase its customer base in the near future.

(b)   Closeness of competition

5.19 The parties are both active in offering mPOS devices but are not the closest of competitors in the supply of mPOS devices. The offerings of the major mPOS providers are summarised below:

Provider	Device (ex VAT)	Transaction rate (in-person)			
SumUp	Currently £19, usual RRP £29	1.69%			
Square	£39	1.75%			
iZettle	Currently £19, usual RRP £59	1.75%			
PayPal Here	£45	2.75%[65]	1.75%[66]	1.5%[67]	1%[68]
Barclaycard Anywhere	£60	2.6%			

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[64]   This analysis is set out in full in Annex 2.
[65]   For total (including online) monthly sales of up to £1500. Alternative fee structure for this band: interchange + 2.5%.
[66]   For total (including online) monthly sales of between £1500.01 and £6000. Alternative fee structure for this band: interchange + 1.5%.
[67]   For total (including online) monthly sales of between £6000.01 and £15000. Alternative fee structure for this band: interchange + 1.25%.
[68]   For total (including online) monthly sales of over £15000.01. Alternative fee structure for this band: interchange + 0.75%

WorldPay POS[69]	£69	1.95% to 2.75% depending on volume[70]

5.20   As can be seen from the table above, in terms of current pricing, iZettle, SumUp and Square have the closest offering with very similar transaction rates (which is the major cost for any merchant in deciding on which supplier to use). This is a consistent picture with pricing developments historically. The graph at paragraph 5.22 below plots the pricing history from PayPal Here, iZettle, SumUp, Square and Barclaycard Anywhere in terms of transaction fees since July 2016.[71] Important points to note from the graph are:

(a)   When Square entered in April 2017, it offered the lowest headline transaction fee rate for mPOS devices - a rate comparable with iZettle's blended rate.

(b)   As noted above, SumUp reduced its prices in September 2017, to just below the level of iZettle and Square. Given that this reduction took place relatively soon after Square's entry, it is plausible that this was a response to Square's entry (in terms of numbers of new customer acquisitions, as proxied by app downloads, Square had caught up with SumUp by Q3 2017).

(c)   The parties' effective rates have been trending downwards over time, reflecting the fact that both parties are increasingly serving larger merchants (rather than any particular reduction in rates for smaller merchants):

- iZettle restructured and simplified its pricing in September 2017.[72] This simplification did not materially alter the average transaction fee, but did lead to an increase in new customer acquisitions. The headline rate of 1.75% was chosen [✂] – in other European countries where Square was not present, iZettle chose to apply a rate of 1.85%;

- PayPal restructured its prices in February 2018, reducing prices for higher TPV merchants. This led to a one-off fall in the blended prices faced by merchants (but did not reduce rates for smaller merchants).

5.21   The parties submit that this data is not consistent with iZettle and PayPal playing an important role in determining each other's commercial decisions. Rather they are consistent with PayPal [✂] while iZettle, SumUp and Square compete more generally. This may also be partly driven by [✂]. In addition, PayPal Here, WorldPay, Barclaycard have chosen to purchase a [✂] off the shelf card reader from Miura, whereas iZettle, SumUp, and Square as 'pure mPOS players' are much more focused on design and therefore more closely involved in the manufacturing process, collaborating with the manufacturer to achieve a terminal which more closely matches their aims (or in Square's case even manufacture their own device). These suppliers also all offer significant value-added services at point-of-sale (as does WorldPay with its relaunched "WorldPay POS").

5.22   As a result, it is these other players (in addition to the broader requirement that the parties remain attractive relative to non-mPOS solutions and the outside option of not accepting card payment at all) that drive price setting behaviour and competition.

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69   WorldPay POS is a very recent re-launch of an mPOS product targeted at small businesses. It includes access to MyBusiness Dashboard (WorldPay's online business support tool). WorldPay also offers a "simplicity" tariff with no upfront charge and £4.99 per month card reader rental fee with an 18 month contract term.
70   Rates obtained from https://startups.co.uk/worldpay/.
71   For the parties, the effective transaction cost (transaction revenues / transaction volumes) has been used. For other players, the headline rate has been used – to the extent that larger merchants are able to secure discounts from these players, the effective rate will be lower than the headline rate.
72   Changing from a 'smart rate' (variable scale between 2.75% and 1% depending on monthly volume) to a fixed rate offer of 1.75%. Merchants who joined prior to the simplification are allowed to choose either the smart rate or the new simplified rate.

[✂]

[✂]

Source: PayPal Here and iZettle from parties' data. Other prices obtained from internet archival sources.

5.23   In addition to the differing pricing strategies and the significant differences between the quality of each party's offering, differences in the customer groups of PayPal Here and iZettle also indicate that the two providers are not close competitors.

Existing PayPal customers

5.24   The majority of PayPal Here's customers are [✂] – indeed, this is recognised in PayPal's internal documents.[73] In fact, [✂].

5.25   Even the smallest PayPal Here customers have an online presence: [✂].

[✂]

[✂]

Source: CRA analysis of PayPal data

5.26   The fact that, as above, the majority of PayPal Here's newly-acquired customers [✂] and that this holds true across the size spectrum is consistent with PayPal Here targeting a differentiated customer base from iZettle and further supports the proposition that PayPal Here and iZettle are not competing closely for the same customers.

Internal documents

5.27   The Decision notes that internal iZettle documents [✂] than is the case in [✂].[74] In fact, [✂] We submit that PayPal [✂] because [✂] and, as other players have emerged, these have received greater prominence in PayPal's internal documents – so [✂] .[75] [✂]; it is more instructive [✂].

5.28   In conclusion, when considering pricing behaviour, the types of merchant that both parties serve and internal documentation, PayPal Here and iZettle are not each other's closest competitor.

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73   See, for example, confidential Annex 10.05 to the Merger Notice, page 6.
74   Decision, paragraph 104.
75   See, for example, Merger Notice, Annex 10.01, pages 7-10.

(c)   Competitors to the parties

SumUp and Square

5.29   As shown by the analysis above, both SumUp and Square are closer competitors to iZettle than PayPal Here in that they pursue similar commercial strategies with low initial card reader costs[76] and flat transaction rates and appear to lead on implementing new price levels for use of mPOS devices.

5.30   As explained above, SumUp is going through a period of considerable growth, driven by a decision to cut headline prices to slightly below the level of Square and iZettle in September 2017. It has nearly doubled its level of app downloads since then, which is consistent with the view that supply of these devices can be rapidly expanded and customers acquired quickly.

5.31   Square is the global leader in supply of mPOS devices, already operating in six countries.[77] Having become the leading mPOS provider in countries such as the US and Australia (as explained above), it has made an impact in the UK in a short time, even with its flagship product only able to be supplied to a limited number of merchants pending certification against the new PCI security standards released in 2018. The expectation – as flagged by a third party who spoke to the CMA in Phase 1[78] – is that it will expand significantly in the UK in the near future (it is anticipated that its device will be certified against the PCI standard shortly). This has been signposted by a number of recent parallel launches in the UK:

(a)   In March 2018, Square launched an "Instant Deposit" service. This is geared towards SMEs and allows sellers to receive the proceeds of their sales within 20 minutes of the sale.[79]

(b)   In April 2018, Square launched a peer-to-peer app to allow individuals to send cash to each other.[80]

Acquirers that supply mPOS and non-mPOS devices

5.32   The Decision does not consider that any other mPOS providers are active constraints on the parties, but there are others referred to in the parties' internal documents: [✂][81] [✂].[82] As mentioned in paragraph 5.27 above, as players have emerged in the UK, PayPal's internal documents make reference to an increasing number of suppliers.

5.33   The Decision explains that around half of respondents indicated that non-mPOS suppliers can, in principle, compete effectively for the smallest customers.[83] It cites barriers to these providers being able to compete including legacy technology, higher regulation, high customer acquisition costs and lack of promotional capability [84] but these are unlikely to be material in practice and/or are based on an outdated view of the capability of these providers. For example, it seems unlikely that the large payment services providers listed below would in reality struggle with promotional capability.

5.34   In terms of legacy technology and onboarding processes, both traditional acquirers and new players have fully functioning web-based recruitment processes that can support online application processing. First, providers now have access to a far wider range of automated services from, for example, credit reference agencies (including Experian and ClearScore) to

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76   At the time of writing, SumUp and iZettle are running promotional pricing for their card readers. Both companies have priced their readers at £19.
77   https://squareup.com/gb/about.
78   Decision, paragraph 120.
79   https://www.pymnts.com/news/mobile-commerce/2018/square-instant-deposit-cash-flow-uk/.
80   https://www.pymnts.com/news/mobile-payments/2018/square-cash-app-p2p-payments/.
81   See, for example, PayPal's response to Section 109 Request, document S111 (slides 6-7); iZettle's response to Section 109 Request, document 025; and Annex 10.08 to the Merger Notice (slide 103).
82   See, for example, iZettle's response to Phase 1 Section 109 Request, documents 025 and 066 (slide 13) and PayPal's response to Phase 1 Section 109 Request, document S113 (slides 6-7). [✂].
83   Decision, paragraph 131.
84   Decision, paragraph 132.

allow them to perform the appropriate checks on merchants before they are allowed to process card transactions. These checks, required under "Know Your Customer (KYC)" regulations, can now be performed in real time through Application Programme Interfaces (APIs) with agencies and can be incorporated into a streamlined online process. Further, established service providers to the card industry such as FICO[85] have tailored services to support the real time decision management processes required to make this possible.

5.35   Access to such services was not available until recently. The result of this change has been that processes that previously took days to complete and involved significant cost and resource can now be completed in milliseconds in an online session for a fraction of the cost.

5.36   Once an online application has been completed, typically now within a range of 5 – 15 minutes, all that remains is to get the card acceptance device to the new merchant. Here again advances in the logistics involved have vastly shortened timeframes. As a result of these developments, automated processes for onboarding are now very much standard practice among key players, including the incumbents such as Worldpay and Barclaycard. Acquisition costs are therefore not a material barrier.

5.37   Indeed, large payments providers – which start with the advantage of being vertically integrated[86] – have already reacted to the competitive opportunity, adopting online marketing campaigns[87] and reducing average onboarding times to a standard of 5-15 minutes, as well as introducing new mPOS offerings, re-positioning mobile non-mPOS offerings to more directly compete with mPOS (e.g. by offering "pay as you go" contracts) and developing new devices utilising new technology (e.g. "tap on glass"). More fundamentally, providers such as Barclaycard and WorldPay have invested significant time and resource into replacing legacy technology with new processing platforms to enable them to compete with newer entrants more effectively.

5.38   Their current offerings, which already represent a competitive constraint and have the potential to expand further, are summarised below:

(a)   Barclaycard offers a full portfolio of card readers, including portable and mobile non-mPOS options, with either monthly or "pay as you go" contracts.

(b)   WorldPay, in addition to offering portable non-mPOS devices with flexible pricing packages (including "pay as you go")[88], has recently relaunched its mPOS product as "WorldPay POS".[89] This mPOS reader is offered with two payment options – either an upfront reader price and pay as you go transaction fees (as set out in the table above) or a "Simplicity" model which has no upfront card reader fee but a monthly rental fee of £4.99 based on an 18 month agreement. It is also currently trialling a new "tap on glass" solution (referred to in section 3 above) which is targeted directly at small and micro customers and, once certified against a standard (which is in the process of being developed now), could significantly change its position as a mobile POS provider ("tap on glass" devices do not easily fit within the definition of either mPOS or non-mPOS devices, as those terms have been used in the Decision).

(c)   Elavon also offers a full portfolio of card reader devices, particularly working through resellers and ISOs.[90] Its products include an mPOS solution targeted directly at small

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85   https://www.fico.com/en/products?category=646.

86   At around the same time that chip and PIN became compulsory, regulatory change started to allow participants other than the banks to operate in the card payments sector. However, ultimately it has always been necessary to connect to the backbone of the banking network in order for the money to move behind the scenes of each transaction. In effect, the back-office operations of the acquirers (Barclaycard, WorldPay, Global Payments, First Data, etc.) have remained essentially constant and the front-end payment solutions have consistently advanced and been the subject of competition from others.

87   See for example the WorldPay, Paymentsense and Barclaycard online advertising included in paragraphs 79-80 of the Issues Paper Response.

88   https://business.worldpay.com/lp/cardmachinesme.

89   https://www.worldpay.com/uk/sme/face-face/smart-pos-payments.   WorldPay's previous mPOS offering was called WorldPay Zinc.

90   https://www.elavon.co.uk/reseller-and-referral-programs/msps-isos.html.

business customers.[91] Elavon markets its product as follows: "*MobileMerchant is the ideal solution for businesses such as health & beauty providers, food service, garden centres, home furnishing suppliers, taxi companies, and others*."

  (d) Global Payments is a large payment processor that acquired HSBC Merchant Services in 2009 and benefits from referrals from HSBC for card processing. Global Payments specifically targets small and medium businesses with its payment acceptance offering, and supports a range of portable and mobile non-mPOS devices as well as an mPOS solution.[92]

5.39 In terms of new entry, in addition to the WorldPay pilot mentioned above, there are rumours that First Data is about to launch a "PIN on glass" card reader (utilising a certified Ingenico manufactured device) as a direct rival to Square, alongside their range of Clover POS products already available in the UK, including the Clover Flex specifically designed for mobile merchants.[93]

5.40 The large payment providers have advantages in terms of scale, existing customer base through their acquiring businesses and referral relationships, and payments expertise which would enable them to make significant headway – in the way that SumUp has demonstrated is very possible – if they focussed their efforts (which is likely to occur in the event of price rises by mPOS players). Some are already showing signs of doing so (for example, WorldPay has recently made a significant move to target products at small merchants with its relaunch of its mPOS device and its trial of a "tap on glass" solution).

5.41 As a result, regardless of their positions now, the fact that all of these providers are supplying mPOS devices (or in the process of doing so or refocussing their efforts on smaller merchants) indicates that they are already a constraint that has to be taken seriously. They are exceptionally well placed to take advantage of any opportunities to compete in this rapidly growing and evolving industry – there are no material capacity constraints, so once the technology has been rolled out, a supplier's position can be expanded very quickly. The growth of SumUp, following its adoption of a new pricing strategy in September 2017, is evidence of that.

White label providers

5.42 This is without giving any consideration to white label payment service providers such as NMI and Payworks who provide integrated payment services, including point of sale solutions, to merchants and to ISOs and any other party who is interested in selling a POS solution with their own branding.[94] These providers typically support a range of card reader options as part of their overall solution[95] and offer services to major providers (BarclayCard Anywhere is powered by Payworks).[96] Players like these are enabling an increasing number of POS software vendors that specialise in specific industries to launch their own (m)POS payment solutions,[97] like cab:app,[98] farepay,[99] phorest,[100] and eposnow.[101]

Hybrid competitors

5.43 The convergence of mPOS and non-mPOS device offerings is starting to create hybrid competitors. myPOS is a good example. It has recently opened a flagship store in London and

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[91] https://www.elavon.co.uk/mobilemerchant.html.
[92] See https://www.globalpaymentsinc.com/en-gb/businesses/sme, https://www.globalpaymentsinc.com/en-gb/accept-payments/terminals, and https://globalpaymentsinc.com/en-gb/accept-payments/terminals/globalmpos ("*GLOBAL MPOS is perfect for all business on the go! If you're a business owner wanting to take card payments on the move and have low or seasonal card transaction volumes or just looking for a more cost effective mobile payment solution, GLOBAL MPOS is ideal for you*").
[93] https://www.firstdata.com/en_gb/products/small-business/all-solutions/mobile-card-machine-clover-flex.html.
[94] https://www.nmi.com/eu/ and https://payworks.com/.
[95] https://www.nmi.com/eu/processors-and-devices.
[96] https://www.cardstream.com/.
[97] https://www.nmi.com/technologists.
[98] https://payworks.com/case-studies/cabapp/.
[99] http://www.farepay.co.uk/page/Solutions.
[100] https://www.phorest.com/features/salon-pos-software/.
[101] https://www.eposnow.com/uk/postogo.

has launched a range of new devices, which do not sit neatly into either the mPOS or non-mPOS device definitions; they are mobile and offer wifi and 3G connection to networks but also allow Bluetooth connection to a phone. The devices and offers are targeted at SMEs.

Conclusion

5.44 In conclusion, even when considering only suppliers of mPOS devices (which, for all the reasons set out in section 2 above, would fail to capture the full competitive dynamic), there are a myriad of different suppliers that are actively targeting smaller customers.

5.45 In considering the impact of this Merger, it is important to take account of the range and diversity of players offering solutions to all merchants but, in particular the smaller merchants. There are a host of providers (that supply both mPOS and/or non-mPOS devices) that compete head-to-head with the parties and which, post-Merger, would be well-placed to take advantage of any attempt by the merged entity to raise prices or reduce quality of service; the parties are not duopolists.

6 The most likely counterfactual is not one in which PayPal Here materially strengthens relative to the competition

6.1 In the Phase 2 investigation the CMA needs to identify the "most likely" counterfactual against which to assess the Merger.[102] The Decision identified as a realistic prospect a counterfactual that involved a more competitive position than the pre-merger conditions, on the basis that [✂].[103]

6.2 The evidence is insufficient to meet the (relatively high) standard of proof for establishing a counterfactual that goes beyond the pre-merger conditions[104] and in particular it is not the case that [✂].[105]

6.3 However, it is even more clear that neither of these scenarios is the "most likely" counterfactual in Phase 2. Absent the Merger, the most likely counterfactual is one in which existing trends continue (i.e. PayPal Here [✂]).

6.4 [✂][106] [✂].

6.5 [✂].[107] [✂].

6.6 Accordingly, there is no reason in this case to depart from the usual approach to the counterfactual: in the absence of the Merger the most likely scenario is that competition between suppliers continues to develop in line with existing trends.

7 This transaction could not realistically harm competition or customers

7.1 The Decision focusses its analysis on the possibility of horizontal unilateral effects arising as a result of the Merger. However, key to any finding of unilateral effects will be the ability and incentive of the merged entity to act in a way that is detrimental to customers.

7.2 For the reasons set out below, there is no obvious route to customer detriment as a result of this Merger, even if PayPal Here and iZettle were the two closest and strongest competitors in a narrow mPOS-only frame of reference (which the parties do not accept).

7.3 The evidence shows that larger merchants are well served by a number of mPOS and non-mPOS options. The Decision accepts that pricing for a merchant with £3,000 TPV per month is similar

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[102] Merger Assessment Guidelines (OFT1254/CC2), paragraph 4.3.6.
[103] Decision, paragraph 48.
[104] See: *British Sky Broadcasting/ITV plc*, report of 27 April 2007 (URN 07/1055), paragraph 29; *Air France/VLM* (ME/3535/08), paragraphs 101 – 109; and, *Tesco/Kwik Save* (ME/3387/07), footnote 10.
[105] Decision, paragraph 47.
[106] Response to Issues Paper, paragraph 154-155.
[107] As at 22 December 2018.

whether mPOS or non-mPOS options are chosen and for the reasons set out above, many of these larger (albeit still relatively small) merchants will have reasons to prefer a non-mPOS solution in any event.[108] The focus on any concern in the Decision seemed to be around the smallest merchants, for whom mPOS was believed to be a substantially cheaper option.[109]

7.4   However, even if there were a perceived lack of choice for these very smallest merchants, this could only translate into material anti-competitive effects if the merged entity would have the ability and incentive to tailor its pricing terms to such consumers. If instead the merged entity would offer flat pricing terms (as iZettle itself does today) then a price increase to the smallest merchants would also require an increase to larger merchants who are perceived to have a broader range of options. The possibility of these larger merchants switching away would "insulate" the smallest merchants and constrain the ability for the merged entity to raise prices or reduce quality of service.

7.5   [✂]

       (a)   Flat pricing is increasingly the model used by providers of mPOS and non-mPOS solutions with iZettle and WorldPay following Square and SumUp in adopting this approach.

       (b)   [✂].[110] [✂].[111]

       (c)   [✂].

       (d)   PayPal Here's continued use (in contrast to other mPOS providers) of tiered pricing can be explained by [✂].

7.6   Similarly, any theory based around the parties reducing the quality of the product available ignores the rapidly evolving nature of competition. Any player that stands still (or goes backwards) will be quickly overtaken by those that are continuously seeking innovative ways to exploit new payment technologies and the many new methods of payments that are emerging (including following PSD2). As explained in paragraph 4.21 above, in this rapidly growing industry, new customer acquisitions are crucial. Reducing attractiveness to smaller customers would mean losing the opportunity to increase volume, as well as losing the opportunity to grow with those customers. This is not a sustainable commercial strategy.

8   Omni-channel requirements are broad and cannot be defined solely by merchant size

Omni-channel services are far broader than payment services offline and online

8.1   The term "omni-channel" has developed from the retail industry as the importance of ecommerce and commerce conducted from mobile devices and apps has increased. It describes services that merchants provide to consumers to allow them to engage with the consumer no matter where the consumer may be – in store, online (whether through the merchant's own website or through third party marketplaces/platforms) or through a mobile device remotely (including through apps). More recently, it also reflects a retail trend for merchants to seek to bring together all elements of their business onto one platform (not just payments, but also management of product data, customer data and the operation of sales channels), merging online systems with those used to operate bricks and mortar stores, making use of mobile and cloud software solutions.

8.2   The Decision considered a frame of reference for omni-channel payment services (which, in fact, only encompassed the provision of facilities to allow taking of card payments offline or online).

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108   Decision, paragraph 59.
109   Decision, paragraph 59(b).
110   This includes all industries, turnover levels and seasonality of businesses in the iZettle survey. See iZettle response to Phase 1 s109, document 136 (slide 8).
111   iZettle response to Phase 1 s109, document 136.

8.3 Applying this narrow frame of reference to consideration of this Merger would exclude consideration of much of what omni-channel service means (and will mean as it continues to emerge as a competitive offering). An omni-channel offering is far more complex than just facilitating the taking of payments – this is only one of many different requirements that comprise an omni-channel service.

8.4 Omni-channel services to merchants are, in essence, the provision of a "one stop shop" to meet as many of the merchant's operational needs as possible across all consumer channels (online, offline and remotely through a mobile device).

8.5 In this emerging omni-channel world, merchants have certain key requirements to support a successful sale. These requirements include:

(a) managing product data;

(b) managing customer data; and

(c) opening and managing various sale channels (including mobile, in-store, invoicing/remote channels and online sale); [112]

8.6 To support their omni-channel aspirations, merchants also require access to payment services which fit seamlessly into their omni-channel platform. It means that omni-channel service providers must be able to offer, or have access to, payment processing products for both face-to-face and remote / online payments and be able to provide merchants with a single view of payment transaction processing across all channels.

8.7 Suppliers from whatever background (POS supplier, acquirer, ISO, bank, ecommerce platform) are seeking to respond to this significant emerging change in demand from merchants by building capability to provide as many of these requirements in a "one stop shop" as possible and their offerings are starting to converge.

8.8 The focus of much of this activity is development of ecommerce platforms and POS software to support the emerging needs of merchants as mobile and cloud software developments make more and more business support achievable and affordable. Commerce platforms, such as Shopify (which has launched Shopify Payments) are seeking to move into provision of payment services and dis-incentivising merchants from accepting payments through other means. This threat is reflected in PayPal internal documents which highlight a fear of losing customers with omni-channel needs to the likes of Amazon and Shopify (amongst others).[113]

8.9 This evolution in demand from merchants poses particular challenges to those that have a business focussed on one channel or which have a less-developed offering in a particular channel. This was the ultimate driver for this Merger.

8.10 PayPal provides online and offline payment services for merchants but [✂] (as explained in further detail in section 5 above) and it offers very little additional point of sale software or business management capability to customers, which is of increasing importance in the omni-channel world. Moreover, the acceptance of payments online is predicated on the merchant designing and operating its website through a third party service provider (including competitors to PayPal such as Shopify). Overall, absent the Merger, and for the reasons explained in section 6 above, [✂].[114]

8.11 The acquisition of iZettle allows PayPal to catch up quickly and to offer better omni-channel payments and value-added service capability in a way that would have not been possible absent the Merger (both in terms of immediate access to iZettle's [✂] offline platform, with value-added

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[112] See, for example, iZettle response to Phase 1 s109 document 135.
[113] Annex 9.05 to the Merger Notice.
[114] See PayPal's response to Question 17 of the Market Questionnaire for further detail.

POS services, which PayPal does not have, and in terms of geographic reach). However, this is likely to be [✂].

Smaller merchant demand is more complex than might first appear

8.12   In general, smaller merchants might require less sophisticated omni-channel services than larger ones (and payment services may form a more important part of their requirements) but smaller businesses will still look to their providers to offer products that consolidate store front, inventory, product, customer and payment information (just without the need for complex integrated back office systems). However, demand for omni-channel services is unlikely to be solely a function of the size of merchant. For the reasons already set out above in section 4 in relation to payment services, in reality the demands of merchants are far more complex and based upon a far greater range of factors than transaction size alone.

8.13   Demand from smaller merchants for particular types of omni-channel service is likely to vary considerably depending on in which industry they operate. In certain industries, such as retail or travel, a smaller merchant's requirements for any omni-channel service are likely to be closer to those of larger merchants. For other smaller merchants, there is likely to be little interest in omni-channel services at all (for example, it is hard to imagine more traditional plumbers or window-cleaners, or merchants active in certain areas of hospitality, like coffee shops, being interested in such services in the near future). For certain industries, rather than seek an omni-channel service offering from a provider such as PayPal, smaller merchants are increasingly turning to marketplaces such as Amazon marketplace (with Amazon payments) or more industry specific marketplaces such as AirBnB for travel, Deliveroo/Uber Eats for restaurants, and Uber and MyTaxi for taxis. As such, it is very unlikely that any supplier will target omni-channel services at these types of smaller retailer alone.

8.14   However, even if one only considers the provision of omni-channel services to smaller merchants as a whole, the Merger will not lead to a substantial lessening of competition because the Merger is not about reducing competition but rather bringing together largely complementary businesses to create a stronger omni-channel payments offering. This will allow PayPal to better compete with the significant and well-resourced established omni-channel suppliers that are already active in the UK and which are targeting smaller customers. It will also better equip PayPal to meet the challenge posed by the increasing number of software providers and ecommerce platforms that pre-determine which payment provider is selected by a merchant.

9   There are many competitors targeting smaller customers with an omni-channel service

9.1   The provision of omni-channel service offerings is an emerging marketplace. As such, the shape of the competitive landscape may look very different in one or two years' time. This is particularly the case given the rapid technological developments and regulatory-led revolution taking place in payment services currently (referred to in section 3 above).

9.2   However, what is clear is that some large, well-resourced players are already well placed to offer (and are offering) substantial omni-channel services today and actively targeting smaller customers, often with a broader range of omni-channel services than PayPal will gain through the Merger. Furthermore, there are multiple other emerging and potential entrants that have the incentive and capability to compete, many of whom are at least as well positioned as iZettle would have been absent the Merger. These suppliers are referred to in the parties' internal documents on numerous occasions as major existing providers of omni-channel services.

9.3   The table below sets out some of these suppliers:

Provider	Omni-channel offerings				
	Commerce platform	Payment services	Multiple sales channels	Targeting SMEs	
Square / Weebly[115]	✔	✔	✔	✔[116]	Already a strong mPOS supplier (see section 5 above), Square made a significant step towards providing an omni-channel service by acquiring the online ecommerce supplier Weebly in April 2018, giving Square the capability to create online stores, manage inventory, shipping and marketing, and seamlessly take payments online and face-to-face. Speaking to Nasdaq.com, Alyssa Henry (seller lead, Square) stated "*Omni-channel commerce is our top focus area in 2018*"[117] Square also offers complementary, SMB-friendly, services such as an Instant Deposit service (as described in paragraph 5.31 above) and Square Capital (giving businesses cash advances – the same as iZettle).
WorldPay [118]	–	✔	✔	✔[119]	WorldPay describes itself as "*well placed to both benefit from and shape*" the global trend for omni-channel interaction with consumers, given that WorldPay "*combines a pioneering history and scale presence across these now converging channels, and does it from a global perspective*". It has spent several years investing in a new core processing platform to allow it to be able to offer omni-channel payment services.[120] WorldPay notes that omni-channel provides merchants with "*crucial data about their own trading performance and the habits and preferences of their customer base*".[121] WorldPay offers SMBs a full range of payment services to allow card acceptance across all channels (online, offline, telephone, email and mobile). With its recent relaunch of its mPOS offering; its pilot of new technology targeted directly at micro businesses (see section 5 above), and its MyBusiness Dashboard
Barclaycard[122]	-	✔	✔	✔[123]	Barclaycard serves customers of all sizes and directly targets them with an omni-channel offering already today.[124] Alongside investment in its processing platform, Barclaycard also acquired the Logic Group in 2014 to be able to offer additional omni-channel customer analytics.[125] Alongside omni-channel payment processing, it offers customers Barclays Smartbusiness Dashboard. Barclaycard benefits from a referral relationship with Barclays.[126]
Global Payments [127]	-	✔	✔	✔	Global Payments is another large acquirer in the UK that directly targets small businesses with its product offering, and which is selling an omni-channel service to those customers already. Global Payments benefits from a referral relationship with HSBC.

[115]   https://www.weebly.com/uk/square.
[116]   https://www.nasdaq.com/article/square-is-acquiring-weebly-heres-why-its-a-big-deal-cm954962.
[117]   https://www.nasdaq.com/article/square-is-acquiring-weebly-heres-why-its-a-big-deal-cm954962.
[118]   https://www.worldpay.com/uk/about/our-markets.
[119]   https://mybusiness.worldpay.com/.
[120]   https://www.worldpay.com/uk/iq/new-acquiring-platform.
[121]   https://www.worldpay.com/uk/about/our-markets.
[122]   https://www.barclaycard.co.uk/business/accepting-payments/corporate-payment-solutions.
[123]   https://www.barclaycard.co.uk/business/news-and-insights/card-machines-for-small-businesses.
[124]   https://www.barclaycard.co.uk/business/accepting-payments/corporate-payment-solutions.
[125]   https://www.home.barclaycard/media-centre/press-releases/barclaycard-to-acquire-the-logic-group.html.
[126]   https://www.barclays.co.uk/business-banking/ways-to-bank/accepting-card-payments/.
[127]   https://www.globalpaymentsinc.com/en-gb/businesses/sme.

Provider	Omni-channel offerings				
	Commerce platform	Payment services	Multiple sales channels	Targeting SMEs	
First Data[128]	–	✔	✔	✔	First Data is a major acquirer in the UK and also actively targets small businesses with an omni-channel offering.[129] It offers a range of non-mPOS and mPOS terminals for merchants, following its acquisition a few years ago of the tech start-up, Clover. First Data's activities indicate that it is targeting smaller merchants (as other acquirers are doing); (i) First Data has a distribution partnership with SumUp;[130] and (ii) as mentioned in paragraph 5.39 above, CloverGo's PIN on glass[131] terminal is expected to launch in UK in the near future (having launched in the US recently).
Payments ense	–	✔	✔	✔	Paymentsense is a major supplier of POS and online payment solutions to SMEs and, in addition, has developed "Connect", which allows commerce software partners to integrate Paymentsense's omni-channel payment service capability to provide an omni-channel solution to merchants. As Paymentsense puts it: "*Until now, integrated payments were the preserve of big businesses. That didn't seem fair to us, so we created Connect. It's a reliable, affordable integrated payment product for SMEs, designed to simplify payments and help them get more value from their passion.*"[132]
NMI/Credi tcall	–	✔	✔	✔	NMI/Creditcall are white label providers of payment services. The merger of NMI and Creditcall in 2018 was with a view to being able to offer its partners the ability to sell an omni-channel payment solution to merchants. In a statement about the merger, Roy Banks, chief executive officer of NMI, said "*the payment technology requirements of today's merchants are more complex than ever — they need to accept and process payments in all sales channels and environments. The need for a single vendor and platform that seamlessly integrates and simplifies the complexities of card-present and card-not-present payments has never been greater, and the combination of NMI and Creditcall will finally deliver a true omnichannel solution.*"**[133]**
Shopify[134]	✔	✔	✔	✔[135]	Shopify actively targets merchants of any size with its omni-channel offering in the UK. "*From websites to mobile apps, in-store or on the go, Shopify makes it easy to sell your products anywhere.*"[136] Its offering includes the ability to create and sell through a website but also to make sales through social media as well as in-store, together with a suite of business management capability tools (such as inventory management, management of product and customer data, marketing and merchant support ,and automation of fulfilment of customer orders) and its own mPOS card reader (the same card reader used by PayPal Here). It runs over 32000 websites in the UK.

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[128] https://www.firstdata.com/en_gb/products/small-business/all-solutions.html.
[129] https://www.firstdata.com/en_gb/products/small-business/all-solutions.html.
[130] https://www.firstdata.com/en_gb/products/small-business/all-solutions/sum-up-mpos.html.
[131] https://www.clover.com/shop/product/clover-go/reader.
[132] https://www.paymentsense.co.uk/partners/.
[133] https://www.nmi.com/eu/blog/cardstream-selects-creditcall-for-first-white-label-omni-channel-payment-solution.
[134] https://www.shopify.co.uk/channels.
[135] https://www.shopify.co.uk/channels - targeting customers of all sizes.
[136] https://www.shopify.co.uk/channels

Provider	Omni-channel offerings				
	Commerce platform	Payment services	Multiple sales channels	Targeting SMEs	
Adyen	–	✔	✔	?	Adyen has been active in the UK for several years. Its omni-channel solution "*appears best in class and should therefore stand out in the offline space*"[137]. Equity reports also note "*The key advantage enjoyed by Adyen is the fully global platform built for the modern omni-channel payments world with the platform integrating the full end-to-end payments stack*"[138] Adyen has replaced PayPal as the payment processor for eBay. The industry has widely interpreted this as showing Adyen's intent to expand services to small businesses.
Elavon[139]	–	✔	✔	✔	Elavon – one of the largest payment processors in Europe – actively targets small businesses in the UK with a range of payment service solutions, including the ability to accept payments in-store, over the phone and online.
Stripe[140]	-	✔	✔	✔	Stripe is one of PayPal's fiercest competitors in the US and is a strong online payments provider, having grown rapidly since their launch in 2013 to serving around 20-30,000 merchants. Stripe advertises that its solutions are for businesses of all sizes – "*from startups to the world's largest companies*".[141] It made an mPOS device available in the US through a partnership with Payworks. It is also currently trialling a device in the UK (and has created an area on its UK website for a POS terminal (although this is not yet available).
Sage Pay[142]		✔	✔	✔	Sage Pay is part of the Sage Group – which offers a variety of accounting and HR-related software to businesses of all sizes. Sage Pay is the payment product division of the group and offers omni-channel payment service capability to small businesses[143] (including start-ups),[144] allowing payments to be taken online, in-store and over the phone, all of which integrates seamlessly into the accounting software. Sage Pay also offers the ability to integrate the payment solution with major ecommerce platform providers.[145]
Ingenico	–	✔	✔	✔	Ingenico is a major hardware manufacturer, offering a range of point of sale terminals from integrated and self-service terminals through to portable and mPOS. In 2017, Ingenico acquired Bambora, a Swedish specialist in payment solutions with a merchant acquiring platform and one-stop shop offering for merchants including SMBs. The transaction was described by Ingenico's CEO as: "*a key milestone in our strategic plan providing a more integrated client offering and omnichannel solutions.*"[146] It has also acquired Ogone and GlobalCollect to add online payments capabilities Ingenico's omni-channel offering is actively promoted, focussing on the benefits to businesses in terms of cost savings, customer

137   PayPal's response to Phase 2 Section 109 Request, document S214.
138   PayPal's response to Phase 2 Section 109 Request, document S216.
139   https://www.elavon.co.uk/our-services/small-business/overview.html.
140   https://payworks.com/stripe/.
141   https://stripe.com/about
142   https://www.sagepay.co.uk/.
143   https://www.sagepay.co.uk/#smallbusiness.
144   https://www.sage.com/en-gb/startup-business/.
145   https://www.sagepay.co.uk/partners-and-developers/sage-pay-integrations.
146   https://www.ingenico.com/press-and-publications/press-releases/finance/2017/07/ingenico-ramps-up-its-transformation-acquisition-of-bambora.html.

Provider	Omni-channel offerings				
	Commerce platform	Payment services	Multiple sales channels	Targeting SMEs	
					relationships, and fraud prevention.[147] Ingenico has also recently launched its own integrated POS platform, targeted at small business.[148] Finally, many third party commerce platforms are available through its marketplace.
Verifone	-	✔	✔	✔	Verifone describes itself as "*the leading payment service provider*" who provide "*everything you need for payment acceptance – in-store, online and mobile*".[149] Their website also highlights their advance reporting functionality. As with Ingenico, many third party commerce platforms are available through its marketplace.

Other suppliers

SumUp

9.4 Unlike the other players mentioned above, which are existing providers of omni-channel services in the UK, the parties view SumUp as being in a similar position to iZettle [✂]. SumUp offers certain ancillary services to complement its offline payment processing service – in particular, industry-specific software and merchant analytics dashboards. It has also added an ecommerce API to allow for online card purchases. It is also clearly exploring the ability to offer broader omni-channel style services (including through a partnership with First Data). However, [✂] the parties consider it unlikely to offer a successful omni-channel offering in the immediate future, absent a partnership with a third party.

9.5 Having said all that, if iZettle is viewed as having the incentive and capability to provide omni-channel services absent the Merger, SumUp must be considered as being in the same position, given its strong and rapidly growing position in 2018. It would be inconsistent to treat iZettle and SumUp differently in this respect.

Other potential competitors

9.6 Though not current competitors or likely to enter in the short term, Amazon, Apple, Google and Facebook are all investing in commerce and payment capabilities that cross channels and they have the scale and small customer base to have a large impact in a short space of time:

(a) Amazon and its Marketplace are effectively a channel in their own right, with reportedly one third of UK ecommerce transactions passing through Amazon's platform in 2017.[150] Amazon has built a comprehensive offering to help small businesses trade within and outside of Amazon's Marketplace, like 'Amazon Web Services'[151], 'Fulfilment by Amazon'[152] and 'Amazon Payments'.[153] Amazon Payments lets merchants accept Amazon on their own websites and is starting to expand in much the same way as PayPal expanded out of its connection with eBay. The Amazon offering for face-to-face sales might be very different to the use of card readers. Amazon Go stores offer a cashier-less experience to shoppers through the Amazon App (see section 3 for more detail). This appeared in the

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[147] See, for example, https://www.ingenico.com/press-and-publications/library/videos/smart-terminals/omnichannel.html.
[148] https://www.ingenico.com/axium-ecosystem.
[149] https://www.verifone.com/en/uk/omnichannel-solutions
[150] https://tamebay.com/2018/07/third-uk-ecommerce-comes-amazon-online-sales-11-across-europe-2017.html
[151] https://aws.amazon.com and https://aws.amazon.com/ecommerce-applications/?nc2=h_m2
[152] https://services.amazon.co.uk/services/fulfilment-by-amazon/multi-channel-fulfilment.html
[153] https://pay.amazon.com/uk

UK in November when they opened a pop-up store in Soho aimed at showcasing some of their Marketplace partners' products ahead of Christmas.[154]

(b) Apple is investing heavily in the expansion of Apple Pay as a payment method in-store, online and in apps. The fact that it controls access to the NFC chips in the iPhone presents it with the option of converting the iPhone platform into a card reader. Were it to make such a decision, Apple's size and brand power would allow it to rapidly expand into payments and omni-channel services more broadly. Google is similarly investing in Google Pay and small businesses are heavily reliant on Google to drive traffic to their online and offline stores.

(c) Facebook continues to invest in payments capabilities and commerce, including storefronts on Facebook and Facebook Marketplace. Given the technological developments taking place, payment capabilities in Whatsapp and Messenger could be extended to facilitate face-to-face payments.

10 The "most likely" counterfactual is not that PayPal and iZettle would have been the only significant omni-channel suppliers to smaller merchants

10.1 As demonstrated above, there are many actual and emerging omni-channel suppliers serving smaller merchants in the UK. This alone is sufficient to demonstrate that, absent the Merger, PayPal and iZettle would not have been the only significant active suppliers. However, in addition, this is not the "most likely" counterfactual because, absent this Merger, neither party alone would have been able to produce a successful omni-channel offering to smaller merchants in any reasonable timescale:

(a) for the reasons already given in section 8 above, the existing offline offering of PayPal is [✂]– a situation which would not have changed absent the Merger [✂]; and

(b) iZettle is a small player in omni-channel, with limited online capability and absent the Merger [✂].

10.2 As the Decision noted, use of iZettle's existing ecommerce offering in the UK is limited.[155] iZettle's online offering is more focussed on business management platform capability ancillary to its offline payment processing rather than online payments – in particular it has focussed on adding invoicing and business finance services. Its online offering is essentially a website builder (provided through a partner, Selz) that links to the products stored on software that iZettle provides to merchants for in-store use. [✂].

(a) [✂].

(b) [✂].

(c) [✂].

10.3 These [✂] demonstrate the weakness of later evidence set out in the Decision where half of suppliers asked named iZettle "*as currently being [one of] the strongest competitors in the provision of omni-channel payment services for [small, micro and nano] customers*". There was clearly some form of misunderstanding as to what suppliers were being asked to comment on and this is directly contrary to iZettle's experience [✂][156]

10.4 Prior to the Merger, [✂].[157] [✂]. It is very hard to build an omni-channel platform by adding to a platform that has originally been designed to serve one channel only. [✂] and Worldpay has

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154   https://www.businessinsider.com/amazon-has-opened-a-pop-up-store-in-londons-soho-2017-11?r=UK&IR=T
155   Decision, paragraph 138.
156   [✂].
157   This is the relevant test to be applied to determine the correct counterfactual in Phase 2 – see Merger Assessment Guidelines (OFT1254/CC2), paragraph 4.3.6.

spent the past few years investing heavily in developing an entirely new omni-channel platform to replace its previous offline and online offerings. [✂].

10.5   [✂].

10.6   [✂].

10.7   In considering a theory of harm based upon actual potential competition in Phase 2 will be important to consider what the "most likely" scenario would have been absent the Merger. In essence, there can only be a loss of actual potential competition if the CMA believes that iZettle would have been able to provide immediate (or near immediate) actual competition as the constraint from actual potential competition only arises "*if and when entry occurs*".[158] This is far from the reality of where iZettle was prior to the Merger.

10.8   As a result, the fundamental impact of the transaction is pro-competitive versus the counterfactual: it creates an opportunity to integrate the two parties' services into a cohesive omni-channel offer to smaller merchants. Any assessment of the transaction would need to trade off the clear and immediate efficiency benefits of integrating the two parties' largely complementary offers into a cohesive omni-channel player against the speculative highly uncertain concern that *both* parties would overcome the challenges they would face in building such an offer unilaterally so that they could be expected to compete strongly with one-another in the future (and none of the myriad other emerging and actual omni-channel competitors would be able to do the same). Furthermore, the assessment would need to account for the fact that, compared to the efficiency benefits of the transaction which will be delivered to smaller merchants today, any benefits attributed to this putative potential future competition would by definition occur with a much longer lag and be discounted accordingly.

11   [✂].

11.1   [✂].

11.2   [✂]

    (a)   [✂]

    (b)   [✂]

11.3   [✂].

    [✂]

11.4   [✂].

  [✂]

  [✂]
  [✂]

    [✂]

11.5   [✂][159] [✂].[160] [✂].

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158   Merger Assessment Guidelines (OFT1254/CC2), paragraph 5.4.14.
159   [✂].
160   [✂].

11.6   [✂].

   [✂].

11.7   [✂].

   [✂].

11.8   [✂].

11.9   [✂].

11.10   [✂].

11.11   [✂].

11.12   [✂].

12   No prospect of harm to competition in omni-channel payment services

12.1   In conclusion, the evidence does not raise any concern about a prospect of harm to competition in omni-channel payment services:

(a)   Such services are about much more than just the provision of facilities to allow taking of card payments offline or online. Rather they are about meeting the holistic requirements of a merchant in terms of managing products, customer data and sales channels (online, offline, remote and mobile). Taking payments is only one of many services needed.

(b)   In general, smaller merchants might require less sophisticated omni-channel services (and payment services may form a more important part of their requirements) but smaller businesses will still look to their providers to offer products that consolidate store front, inventory, product, customer and payment information (just without the need for complex integrated back office systems). Even smaller merchant demand remains complex and largely driven by requirements borne out of the industry in which they compete.

(c)   There are already many significant providers of omni-channel services actively targeting smaller customers, as well as a number of emerging ones. These are providers that are well-resourced and have both the ability and incentive to continue to invest and innovate (as they have done to date) to win customers in this nascent and growing sector. Absent the Merger, these players are [✂].

(d)   The acquisition of iZettle allows PayPal to keep up with these other players and to offer better omni-channel payments and value-added service capability in a way that would have not been possible absent the Merger (both in terms of immediate access to iZettle's [✂] offline platform, with value-added POS services, which PayPal does not have, and in terms of geographic reach). However, [✂].

(e)   [✂]. As a result, it is not the "most likely" scenario that, absent the Merger, iZettle would have been an actual potential competitor.

(f)   The fundamental impact of the transaction is pro-competitive versus the counterfactual: it creates an opportunity to integrate the two parties' services into a cohesive omni-channel offer to smaller merchants. [✂].

(g)   Any assessment of the transaction would need to trade off the clear and immediate efficiency benefits of integrating the two parties' offers into a cohesive omni-channel player serving smaller merchants in the UK against the speculative highly uncertain concern that both parties would overcome the challenges they would face in building such an offer unilaterally so that they could be expected to compete strongly with one-another in the

future (and none of the myriad other emerging and actual omni-channel competitors would be able to do the same). Furthermore, the assessment would need to account for the fact that any benefits from this putative potential future competition would by definition occur with a longer lag than the efficiency benefits of the transaction and be discounted accordingly.