

**ACQUISITION BY BOTTOMLINE TECHNOLOGIES (DE), INC OF
EXPERIAN LIMITED'S EXPERIAN PAYMENTS GATEWAY BUSINESS
AND RELATED ASSETS**

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

On 22 May 2019 the Competition and Markets Authority (**CMA**) issued an Initial Enforcement Order in accordance with section 72(2) of the Enterprise Act 2002 (the **Act**) concerning the completed acquisition by Bottomline Technologies (de), Inc (Bottomline), through its subsidiary, Bottomline Technologies Limited (Bottomline UK), of certain assets of Experian Limited (the **Initial Enforcement Order**).

On 7 June 2019, the CMA issued directions to Bottomline and Bottomline UK to appoint a monitoring trustee (**MT**) for securing compliance with the Initial Enforcement Order.

[REDACTED].

The CMA wishes to ensure that no action is taken pending final determination of any reference under section 22 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decision on the reference.

The CMA now issues written Directions under paragraph 10 of the Initial Enforcement Order that, for the purpose of securing compliance with the Initial Enforcement Order, Bottomline and Bottomline UK must appoint a formal Hold Separate Manager (**HSM**) of the acquired Experian Payments Gateway business in accordance with the terms provided for, and must comply with the obligations set out, in Annex 1.

Susan Zhuang
Assistant Director, Mergers
Competition and Markets Authority
16 July 2019

ANNEX 1

Directions to appoint a hold separate manager

Interpretation

1. In these Directions:

'the Act' means the Enterprise Act 2002;

'Bottomline' means Bottomline Technologies (de), Inc (principal executives offices 325 Corporate Drive, Portsmouth, New Hampshire, NH 03801, United States);

'the Bottomline business' means the business of Bottomline Technologies (de), Inc and its affiliates (including Bottomline UK), but excluding the Experian Payments Gateway business carried on as at the Commencement Date;

'Bottomline UK' means Bottomline Technologies Limited (company number 08098450);

'business' has the meaning given by section 129(1) and (3) of the Act;

'CMA' means the Competition and Markets Authority;

'Commencement date' means 22 May 2019, which is the commencement date of the Initial Enforcement Order;

'Derogations' means any derogations granted whether before or after the appointment of the HSM by the CMA by which Bottomline or Bottomline UK may undertake certain actions that derogate from the Initial Enforcement Order;

'Experian Payments Gateway business' means the business and assets of Experian Limited (company number 00653331) that were the subject of the transaction as at the Commencement Date;

'HSM' means the Hold Separate Manager appointed in accordance with these Directions;

'Initial Enforcement Order' means the Initial Enforcement Order issued by the CMA on 22 May 2019 and addressed to Bottomline and Bottomline UK;

'MT' means the Monitoring Trustee appointed by Bottomline and Bottomline UK pursuant to the directions issued by the CMA on 7 June 2019 under paragraph 10 of the Initial Enforcement Order;

'the transaction' means the transaction by which Bottomline UK and the Experian Payments Gateway business have ceased to be distinct within the meaning of section 23 of the Act.

The singular shall include the plural and vice versa and terms and expressions defined in the Initial Enforcement Order have the same meaning in these directions, unless the context requires otherwise.

Appointment

2. Bottomline and Bottomline UK must appoint a formal HSM to ensure that the Experian Payments Gateway business operates as a viable and competitive business, separately from and independently of the Bottomline business. The HSM must be subject to the approval by the CMA of his or her identity and the terms and conditions of appointment. Any appointment must be made in accordance with the provisions of these Directions.
3. Bottomline and Bottomline UK must appoint the HSM without delay and in any event by **23 July 2019** (or such longer period as the CMA may reasonably agree in writing) and the HSM will continue to act until the CMA has finally determined the reference (within the meaning of section 79 of the Act) or revoked the Initial Enforcement Order. Bottomline and Bottomline UK must provide the CMA with the name(s) and CV(s) of potential candidate HSM(s), and provide draft terms and conditions of appointment, by **18 July 2019** (or such longer period as the CMA may reasonably agree in writing).
4. The HSM must act on behalf of the CMA and be under an obligation to the CMA to carry out his or her functions to the best of his or her abilities.
5. Bottomline and Bottomline UK must ensure that the terms and conditions of appointment of the HSM reflect and give effect to the functions and obligations of the HSM and the obligations of Bottomline and Bottomline UK as set out in these Directions.
6. Bottomline and Bottomline UK, their subsidiaries and their employees, officers, directors, advisers and consultants must cooperate fully with the HSM, in particular by providing the HSM with all cooperation, assistance and information as the HSM may reasonably require in order to discharge his or her functions.

Functions

7. The functions of the HSM will be to exercise day-to-day management and control of the Experian Payments Gateway business so that:
 - (a) it operates as a viable and competitive business, separately from and independently of the Bottomline business and competes actively with the Bottomline business;
 - (b) appropriate management, reporting and decision-making systems are put in place to preserve the independence of the Experian Payments Gateway business and ensure such independence on an ongoing basis;

- (c) the Experian Payments Gateway business is maintained as a going concern with access to sufficient resources for its continued operation and development.
8. The HSM will also be required to:
- (a) ensure that the Experian Payments Gateway business complies with the Initial Enforcement Order;
 - (b) ensure the economic viability and competitiveness of the Experian Payments Gateway business in accordance with good business practice;
 - (c) minimise, as far as possible, any risk of loss of competitive potential of the Experian Payments Gateway business;
 - (d) assist the CMA and MT in monitoring the extent of compliance by Bottomline and Bottomline UK with the Initial Enforcement Order (including any direction issued under paragraph 10 of the Initial Enforcement Order) or any other order issued by the CMA pursuant to section 72 of the Act;
 - (e) discuss with the MT arrangements which have been, or should be, put in place to ensure the separate operation from the Bottomline business of a viable, competitive Experian Payments Gateway business and compliance by Bottomline and Bottomline UK with the Initial Enforcement Order; and
 - (f) provide every two weeks (or otherwise as required by the CMA) a statement stating whether or not the Experian Payments Gateway business has complied with the Initial Enforcement Order.
9. The HSM must take such steps as he or she reasonably considers necessary in order to carry out the HSM's functions effectively.
10. The HSM must comply with any requests made by the CMA for the purpose of ensuring the full and effective compliance by Bottomline and Bottomline UK with the Initial Enforcement Order.
11. The HSM must immediately notify the CMA in writing if he or she forms a reasonable suspicion that the Initial Enforcement Order has been breached or if he or she considers that he or she is no longer in a position to effectively carry out the HSM's functions.

General

12. The HSM must possess the appropriate qualifications and experience to carry out the HSM's functions.
13. The HSM must neither have nor become exposed to a conflict of interest that impairs the HSM's objectivity and independence in discharging his or her

functions under these Directions, unless it can be resolved in a manner and within a time frame acceptable to the CMA.

14. Bottomline and Bottomline UK shall remunerate and reimburse the HSM for all reasonable costs properly incurred in accordance with the terms and conditions of the appointment and in such a way so as not to impede the HSM's independence or ability to effectively and properly carry out the HSM's functions.
15. Bottomline and Bottomline UK must provide the CMA with a copy of the agreed terms and conditions of the appointment of the HSM prior to his or her appointment.
16. Any termination of the appointment of the HSM is subject to the agreement of the CMA, such agreement not to be unreasonably withheld.
17. All communications between the HSM and the CMA are confidential and should not be disclosed to Bottomline and Bottomline UK, save with the prior written consent of the CMA. The HSM shall not disclose such communications to third parties, save with the prior written consent of the CMA.
18. The CMA may issue such further directions as it considers necessary to ensure compliance with the Initial Enforcement Order, including, where the appointment of the HSM has been terminated, directions for the appointment of a further HSM.