

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

**Unwinding Order made by the
Competition and Markets Authority pursuant to
section 72(3B) of the Enterprise Act 2002 (the Act)**

Whereas:

- (a) on 6 March 2019, Bottomline Technologies (de), Inc (**Bottomline**) completed the acquisition of Experian Limited's Experian Payments Gateway business and related assets (the **EPG business**) through its subsidiary Bottomline Technologies Limited (**Bottomline UK**) (the **Merger**);
- (b) notice of material facts regarding the Merger was given to the CMA on 15 May 2019, following which the CMA launched an investigation into the Merger;
- (c) on 22 May 2019, the CMA issued an initial enforcement order under section 72(2) of the Act (the **Initial Enforcement Order**) addressed to Bottomline and Bottomline UK to prevent pre-emptive action being 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 decisions on the reference;
- (d) on 7 June 2019, the CMA issued directions under the Initial Enforcement Order for the appointment of a Monitoring Trustee (**MT**) to monitor compliance with the Initial Enforcement Order;
- (e) on 8 July 2019, the MT issued its first report, which identified material integration between the EPG business and the Bottomline business, which the CMA considers affects the way in which the parties compete with each other;
- (f) on 16 July 2019, the CMA issued directions under the Initial Enforcement Order for the appointment of a Hold Separate Manager (**HSM**) to operate the

EPG business separately from the Bottomline business and in line with the Initial Enforcement Order;

- (g) the CMA has reasonable grounds for suspecting that action was taken prior to the Initial Enforcement Order which might prejudice any reference under section 22 of the Act or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference;
- (h) the circumstances set out in section 72(6) of the Act do not apply and the reference has not been finally determined in accordance with section 79(1) of the Act.

Now for the purposes of restoring the position to what it would have been had the pre-emptive action not been taken or otherwise for the purposes of mitigating its effects in accordance with section 72(3B) of the Act the CMA makes the following order addressed to Bottomline and Bottomline UK (**Unwinding Order**).

Commencement, application and scope

1. This Unwinding Order commences on the commencement date: 2 August 2019.
2. This Unwinding Order applies to Bottomline and Bottomline UK.
3. This Unwinding Order shall continue in force until such time as it is varied or revoked under the Act.

Non-solicitation of EPG Customers

4. For the duration of this Unwinding Order, Bottomline shall not use EPG Confidential Information to solicit any EPG Customer in relation to any product or service that competes with the EPG business.

Obligation to destroy and/or remove access to the other business's confidential information

5. Bottomline and Bottomline UK shall procure the segregation of confidential information between the Bottomline business and the EPG business. In particular, Bottomline and Bottomline UK shall:
 - (a) segregate all EPG Confidential Information (including all existing physical and electronic materials) and ensure that it cannot be accessed by any Bottomline or Bottomline UK representative or employee other than the EPG Staff and EPG Support Staff, except where strictly necessary for

compliance with external regulatory and/or accounting obligations or with the prior written consent of the CMA;

(b) procure that the EPG Staff destroy or delete any Bottomline Confidential Information (including all existing physical and electronic materials) they hold; and

(c) procure that no EPG Staff has access to Bottomline Confidential Information, except with the prior written consent of the CMA.

Implementation

6. Bottomline and Bottomline UK shall work with the MT and the HSM to prepare a detailed plan to implement the obligations under this Unwinding Order for the MT's review and the CMA's approval, which will contain the steps Bottomline and Bottomline UK intend to take to ensure compliance with the obligations described in paragraphs 4 and 5 above (the **Implementation Plan**).
7. Bottomline and Bottomline UK shall submit a draft of their Implementation Plan to the CMA (following consultation with the MT) no later than 5pm on 10 working days from 2 August 2019.

Compliance

8. Bottomline and Bottomline UK shall procure that each of their subsidiaries complies with this Unwinding Order as if the Unwinding Order had been issued to each of them.
9. Bottomline and Bottomline UK shall facilitate whatever action is required to give effect to this Unwinding Order, subject to continuing to comply with the Initial Enforcement Order.
10. Bottomline and Bottomline UK shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Bottomline and Bottomline UK and their subsidiaries and the EPG business with this Unwinding Order. In particular, on 14 August 2019, and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officer of Bottomline and Bottomline UK (or other persons of Bottomline and Bottomline UK as agreed with the CMA) shall provide a statement to the CMA in the form set out in the Annex to this Unwinding Order confirming compliance with this Unwinding Order.

11. If Bottomline or Bottomline UK have any reason to suspect that this Unwinding Order might have been breached they shall immediately notify the CMA and the MT.
12. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Unwinding Order, or do or refrain from doing any specified action in order to ensure compliance with the Unwinding Order. The CMA may vary or revoke any directions so given.
13. Bottomline and Bottomline UK shall comply in so far as they are able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Unwinding Order.
14. In the case of potential conflict between the provisions of this Unwinding Order and the Initial Enforcement Order, Bottomline and Bottomline UK shall consult the CMA.

Interpretation

15. The Interpretation Act 1978 shall apply to this Unwinding Order as it does to Acts of Parliament.
16. For the purposes of this Unwinding Order:

'the Act' means the Enterprise Act 2002;

'an affiliate' of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

'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 EPG business carried on as at 22 May 2019, the commencement date of the Initial Enforcement Order;

‘Bottomline Confidential Information’ means any commercially sensitive information regarding the Bottomline business in respect of any product of services that competes with the EPG business including, but not limited to, customer data, pricing, knowhow, and intellectual property (including software source code).

‘Bottomline UK’ means Bottomline Technologies Limited (company number 08098450);

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

‘commencement date’ means 2 August 2019;

‘control’ includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

‘the decisions’ means the decisions of the CMA on the questions which it is required to answer by virtue of section 35 of the Act;

‘EPG business’ means the business and assets of Experian Limited (company number 00653331) that were the subject of the transaction as at 22 May 2019, the commencement date of the Initial Enforcement Order;

‘EPG Confidential Information’ means any commercially sensitive information regarding the EPG business including, but not limited to, customer lists, pricing, knowhow, and intellectual property (including software source code).

‘EPG Customer’ means a customer who, as at the date of this Unwinding Order, has a contractual relationship with Bottomline and/or Experian for the provision of software or services provided by the EPG business, including software known as “Experian Payments Gateway” or “EPG” or “Electronic Payments Gateway”.

‘EPG Staff’ means any Bottomline employee or representative dedicated to the EPG business;

‘EPG Support Staff’ means any Bottomline employee or representative providing support to the EPG business in accordance with a derogation to the Initial Enforcement Order;

‘HSM’ means any Hold Separate Manager appointed by Bottomline UK in accordance with the directions issued by the CMA on 16 July 2019 under paragraph 10 of the Initial Enforcement Order;

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

'subsidiary', unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

'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.

unless the context requires otherwise, the singular shall include the plural and vice versa.

Colin Raftery

Senior Director, Mergers

Compliance statement for Bottomline/Bottomline UK

I [insert name] confirm on behalf of Bottomline/Bottomline UK that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) Bottomline/Bottomline UK has complied with the order made by the CMA in relation to the transaction on [insert date of this Order] (the Unwinding Order).
 - (b) Bottomline/Bottomline UK's subsidiaries have also complied with this Unwinding Order.
2. Bottomline/Bottomline UK and its subsidiaries remain in full compliance with the Unwinding Order.

Interpretation

3. Terms defined in the Unwinding Order have the same meaning in this compliance statement.

I understand that:

4. it is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **finances, imprisonment for a term not exceeding two years, or both**. (Section 117 of the Enterprise Act 2002.)
5. Failure to comply with this Unwinding Order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF BOTTOMLINE/BOTTOMLINE UK

Signature

Name

Title

Date