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UK's CMA to consider proposed remedies to competition concerns around Mastercard-VocaLink deal

The UK Competition and Markets Authority ('CMA') announced, on 18 January 2017, that it will consider undertakings put forward by both parties involved in Mastercard UK Holdco Ltd's planned acquisition of VocaLink Holdings Ltd in order to satisfy the CMA's competition concerns about the deal. In its initial statement, published on 4 January 2017, the CMA expressed concerns specifically about the competition impact of the merger on the LINK ATM network, concerns that Mastercard and VocaLink are now seeking to allay through a set of proposed remedies.

In July 2016 it was announced that Mastercard had entered into an agreement to purchase a stake of 92.4% in VocaLink at a cost of around £700 million. Following this announcement the CMA looked into multiple theories of harm connected to the acquisition, and indicated its concerns about the LINK ATM network, run by VocaLink. The CMA stated that given that both Mastercard and VocaLink are two of only three most credible infrastructure providers to the LINK ATM network, such a deal could limit the efforts of the LINK network to obtain good value during an infrastructure provider tender.

The proposed remedies offered to the CMA seek to make it less expensive for LINK to switch from VocaLink to alternative suppliers of infrastructure services, for example by allowing new suppliers of infrastructure services to use VocaLink's infrastructure connectivity to LINK network members, and thus avoid the alternative suppliers needing to build their own connectivity.

The CMA now has until 15 March 2017 to consider these undertakings and will issue a public consultation on the matter; should it not accept the parties' undertakings, the CMA will go ahead with an in depth investigation of the merger, where it would "investigate in detail theories of harm that it considers will lead to a substantial lessening

of competition," explains Emma Wright, Partner at Kemp Little LLP. "The CMA has the power to impose undertakings upon Mastercard or prevent the acquisition completing."

The CMA's statement comes amid the work of the UK's Payment Systems Regulator ('PSR') on competitiveness of payment systems infrastructure in the UK. The PSR published, on 7 December 2016, a remedies consultation following its final report on the market review into the ownership and competitiveness of infrastructure provision of July 2016. "The CMA has not found concerns in the provision of payment infrastructure services to BACS or FPS since, it says, there are many credible alternatives to VocaLink and Mastercard," notes Al Mangan, Managing Associate at Addleshaw Goddard LLP. "At first sight, it is difficult to reconcile the CMA's decision with the PSR's conclusion that there is currently no effective competition in the market for the provision of central infrastructure services for BACS, FPS (and LINK)."

"Many commentators view Mastercard's move for VocaLink as a defensive play, to mitigate the threat to card revenues posed by new PSPs that use FPS (or will do post-PSD2)," continues Mangan. "Against that background, a requirement to remedy only the LINK-related aspects of the transaction looks like a good outcome for Mastercard."