



EUROPEAN COMMISSION  
DG Competition

***Case M.9744 – MASTERCARD/NETS***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

---

Decision on the implementation of the commitments -  
Purchaser approval  
Date: 25/2/2021



## EUROPEAN COMMISSION

Brussels, 25.02.2021  
C(2021) 1422 final

### **PUBLIC VERSION**

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

Mastercard Incorporated  
2000 Purchase Street  
Purchase, NY 10577  
United States of America

Dear Sir or Madam,

**Subject: Case M.9744 – MASTERCARD / NETS**  
**Approval of Fidelity National Information Services, Inc. as Remedy Taker**  
**of the Assets following your letter of 29 January 2021**

#### **1. FACTS AND PROCEDURE**

- (1) By decision of 17 August 2020 (the “Decision”) based on Article 6(1)(b) in connection with Article 6(2) of Council Regulation (EC) No 139/2004<sup>1</sup> and Article 57 of the EEA Agreement, the Commission declared the operation by which Mastercard Incorporated (“Mastercard”, USA) acquires sole control of the Nets A/S’ (“Nets”, Denmark) account-to-account payment business (the “Target”) (the “Transaction”) compatible with the internal market, subject to the conditions and obligations laid down in the commitments annexed to the Decision (the “Commitments”).
- (2) In particular, under the Commitments, Mastercard and Nets offered to transfer to a suitable Remedy Taker a global licence to distribute, supply, sell, develop, modify, upgrade or otherwise use Nets’ Realtime 24/7 technology (the “Licensed

---

<sup>1</sup> OJ L 24, 29.1.2004, p. 1 (the “Merger Regulation”).

Technology”), with which the Target currently competes in account-to-account (“A2A”) core infrastructure services (“CIS”) in the EEA/UK. The Commitments provide that the Remedy Taker will have access to the Licensed Technology on an exclusive basis in the EEA/UK and, on a non-exclusive basis, outside of the EEA/UK. In addition to the benefit of the Licensed Technology, the Commitments also provide for the transfer of personnel,<sup>2</sup> as well as for the provision of consultancy services and transitional services (together with the Licensed Technology the “Assets”).<sup>3</sup>

- (3) On 28 January 2021, Mastercard and Fidelity National Information Services, Inc. (“FIS”) entered into the Licence Agreement and the Transitional Service Agreement for Consultancy Services. On the same day, Nets and FIS entered into the Transitional Service Agreement for Hosted Infrastructure Services. Together with their respective schedules, the above agreements are hereinafter referred to as the “Transaction Agreements”.
- (4) By reasoned submission of 29 January 2021, Mastercard proposed FIS for approval by the Commission as Remedy Taker of the Assets. FIS is a US-based provider of financial services technology. The company is active globally via three business segments: Merchant Solutions, Banking Solutions, and Capital Market Solutions. FIS’ revenues in 2020 amounted to approximately EUR 11.2 billion. FIS employs more than 55 000 people across more than 50 countries and processes over 75 billion of transactions worldwide annually.
- (5) In its opinion of 16 February 2021 (the “Reasoned Opinion”), pursuant to paragraph 25(vii) of the Commitments, Monitoring Trustee Partners, acting as monitoring trustee (the “Monitoring Trustee”), concludes that (i) FIS fulfils the Remedy Taker Criteria set out in section D of the Commitments and that (ii) based on the Transaction Agreements, the Assets would be provided in a manner consistent with the Commitments.

## **2. ASSESSMENT OF THE PROPOSAL**

- (6) According to paragraph 15 of the Commitments, in its assessment of the Transaction Agreements, the Commission has to verify that the proposed Remedy Taker fulfils the Remedy Taker Criteria and that the Assets are being provided in a manner consistent with the Commitments including their objective to bring about a lasting structural change in the market.

### **2.1. Assessment of the Remedy Taker Criteria**

- (7) As set out in paragraph 14 of the Commitments, in order to be approved by the Commission, the Remedy Taker must fulfil the following criteria:

---

<sup>2</sup> See para. 75 of the Commitments providing for the transfer of the Key Personnel as part of the Assets, subject to their consent (the “Key Personnel Transfer Commitment”).

<sup>3</sup> Capitalised terms in this decision have the meaning as set out in the Commitments, unless indicated otherwise.

- (a) The Remedy Taker shall be independent of and unconnected to Mastercard and its Affiliated Undertakings<sup>4</sup> (this being assessed having regard to the situation following the licensing);
- (b) The Remedy Taker shall have the financial resources, proven expertise and incentive to maintain and develop the Assets as a viable and active competitive force in competition with Mastercard and other competitors;
- (c) In particular, the Remedy Taker should have the following attributes:
  - Presence and business activities in the EEA/UK;
  - Experience in providing financial services in a regulated environment to individual banks or to banking communities and a strategic desire to build long term business relationships in the sector;
  - Experience in operating relevant business and IT services to deliver, operate and develop software and operational processes. This should include a proven record of delivering IT ecosystems in areas such as the processing of payment transactions, securities or other financial instruments, telecommunications or the provision of other mission critical infrastructure;
  - Expertise in the provision of A2A CIS, as evidenced, for example, through participation in A2A CIS tenders by way of consortia;
  - Access to sufficient financial resources to support the provision of long-term A2A CIS contracts including participation in lengthy contract tender processes (typically of 1-2 years in duration); and
  - An ability to offer complementary overlay services such as A2A payment services or other value added services (e.g. fraud management and analytics) including by way of consortia, outsourcing or other commercial arrangements;
- (d) By virtue of the Key Personnel Transfer Commitment in light of its own resources, the Remedy Taker shall have at its disposal (including by virtue of outsourcing arrangements) sufficient and sufficiently capable staff in order to compete effectively in the market for the provision of A2A CIS services in the EEA/UK;
- (e) The provision of the Assets by the Remedy Taker must neither be likely to create, in light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed.

### 2.1.1. Independence from Mastercard

- (8) First, Mastercard and FIS are both publicly-traded companies listed on the New York Stock Exchange. Mastercard does not hold directly or indirectly any shares in

---

<sup>4</sup> That is to say undertakings controlled by Mastercard, whereby the notion of control shall be interpreted pursuant to Article 3 of the Merger Regulation and in light of the Commission Consolidated Jurisdictional Notice under the Merger Regulation (see Section A of the Commitments).

FIS (and *vice versa*). Although a number of institutional investors are shareholders of both Mastercard and FIS, the Monitoring Trustee's review revealed that (i) these common shareholders have modest individual stakes in Mastercard and FIS, typically well below 5% and in no instance exceeding 8%; (ii) none of the common shareholders has a board representation in Mastercard or FIS; and (iii) Mastercard and FIS are not aware of any shareholder agreements or proxy voting arrangements among these common shareholders. Moreover, none of the members of the board of directors of Mastercard or FIS is active as a member of the board of directors of the other company.<sup>5</sup>

- (9) Second, as companies active in the payment value chain, Mastercard and FIS have a number of commercial relationships, in particular in relation to card-based payments, and Mastercard's role as an owner of the Mastercard card payment scheme. The Monitoring Trustee's review, with the assistance of an industry expert,<sup>6</sup> has shown that the above commercial relationships are (i) common industry practice and (ii) limited in terms of financial scope (representing less than [...] of FIS' and Mastercard' global revenues in 2020). In view of the foregoing, and in line with the Monitoring Trustee,<sup>7</sup> the Commission considers that these agreements do not impede the independence of FIS from Mastercard.
- (10) In light of the above and the Reasoned Opinion, the Commission concludes that FIS is independent of and unconnected to Mastercard and its Affiliated Undertakings.

#### 2.1.2. *Financial resources, proven expertise and incentive to maintain and develop the Assets as a viable and active competitor*

##### 2.1.2.1. Financial resources

- (11) According to paragraph 14 of the Commitments, the proposed Remedy Taker must have the financial resources to use, develop and maintain the Assets as a viable and active competitive force in competition with Mastercard and other competitors. More specifically, the Commitments specify that the proposed Remedy Taker shall have access to sufficient financial resources to support the provision of long-term A2A CIS contracts, including participation in lengthy contract tender processes (typically of 1-2 years in duration). In this respect, the Commission notes the following.
- (12) First, FIS has a market capitalisation of EUR 81.3 billion (as per December 2020) and is quite profitable, with continuously improved financial performance over the past three years. In 2020, it generated revenues of EUR 11.2 billion (+22% compared to the previous year), with an EBITDA of EUR 4.7 billion and a net income of EUR 3 billion. The analysis of FIS' financial documentation shows a strong balance sheet with significant cash balances. In view of the foregoing, the Commission concludes, in line with the Monitoring Trustee,<sup>8</sup> that FIS has sufficient financial resources to develop the Assets going forward.

---

<sup>5</sup> Reasoned Opinion, Section 4.2.

<sup>6</sup> As per para. 25(viii) of the Commitments, on 6 October 2020, an expert in the payment and financial infrastructure industry was appointed to assist the Monitoring Trustee.

<sup>7</sup> Reasoned Opinion, Section 4.3.

<sup>8</sup> Reasoned Opinion, Section 6.2.

- (13) Second, under the Transaction Agreements, FIS will pay Mastercard a Licence fee of [...].<sup>9</sup> FIS will fund the above through its existing available cash resources, with no need to enter into any additional financing arrangements. Given the company's capability to generate significant positive operating cash flows and its additional loan capacity, it appears that FIS has multiple significant sources to fund the acquisition and the subsequent development of the Assets.<sup>10</sup>
- (14) Based on the above information and the Reasoned Opinion, the Commission concludes that FIS has sufficient financial resources (i) to maintain and develop the Assets as a viable and active competitive force in competition with Mastercard and other competitors and (ii) to support the provision of long-term A2A CIS contracts, including participation in lengthy contract tender processes (typically of 1-2 years in duration).

#### 2.1.2.2. Proven expertise

- (15) According to paragraph 14 of the Commitments, the proposed Remedy Taker must have the proven expertise to maintain and develop the Assets as a viable and active competitive force in competition with Mastercard and other competitors.
- (16) In this respect, the Commission considers, in line with the Reasoned Opinion,<sup>11</sup> that FIS has a deep understanding of the financial and payment industry as it is an established global provider of financial services technology. Incorporated in 1968, the company has a long history in the financial sector. The company's offer includes *inter alia* merchant acquiring, payment solutions, core processing applications, digital solutions (such as e-banking solutions, as well as fraud and risk management solutions), electronic funds transfer services, *etc.* FIS' total revenues are predominantly occurring in the banking sector. In addition, the Reasoned Opinion points out that FIS has relevant experience in acquiring and integrating a number of business assets and companies in the payment systems sector, showing its proven capability to execute transfers and integrate new business assets into its own organization (such as Worldpay in 2019, Sungard in 2015 and Clear2Pay in 2014).<sup>12</sup>
- (17) Furthermore, according to paragraph 14 of the Commitments, the proposed Remedy Taker should have (i) presence and business activities in the EEA/UK; (ii) experience in providing financial services in a regulated environment to individual banks or to banking communities and a strategic desire to build long term business relationships in the sector; (iii) experience in operating relevant business and IT services to deliver, operate and develop software and operational processes; (iv) expertise in the provision of A2A CIS; and (v) the ability to offer complementary overlay services, such as A2A payment services or other value added services.
- (a) Presence and business activities in the EEA/UK
- (18) The Commission notes that FIS achieves a material share of its total revenues in the EEA/UK, where the company has a direct presence, with offices in many EEA/UK countries (including *e.g.* France, Germany, the Netherlands and the UK). FIS'

---

<sup>9</sup> [...].

<sup>10</sup> Reasoned Opinion, Section 6.2.

<sup>11</sup> Reasoned Opinion, Sections 3 and 6.4.

<sup>12</sup> Reasoned Opinion, Section 7.2.3. See also cases M.9357 – *FIS/Worldpay*, decision of 5 July 2019 and M.7767 – *FIS/Sungard*, decision of 16 October 2015.

activities in the EEA/UK include *inter alia* the provision of merchant acquiring and payment processing services,<sup>13</sup> core banking and outsourcing services.<sup>14</sup>

- (19) Based on the above considerations and the Reasoned Opinion, the Commission concludes that FIS fulfils the criterion of having a presence and business activities in the EEA/UK.
- (b) Experience in providing financial services in a regulated environment and strategic desire to build long term business relationships
- (20) The elements in the Commission’s file reveal that FIS is a well-known and respected global financial services provider. The company’s offering includes a wide range of financial software applications and services, included financial and payment solutions, which are used by leading global banks and must comply with all legal and regulatory requirements relevant to payments processing (for example, anti-money laundering or counter terrorist financing obligations imposed on the bank).<sup>15</sup> The company is subject to regulation, supervision, and enforcement authority of numerous governmental and regulatory bodies in the jurisdictions in which it operates, which includes banking regulators, such as the Payment Systems Regulators (PSR) in the UK and the central bank of the Netherlands (DNB).<sup>16</sup>
- (21) Moreover, as regards FIS’ strategic intent to build long-term business relations, the Monitoring Trustee observes that FIS has built up long-lasting business relationships with its banking customers, a significant percentage of its business being related to applications and services provided under multi-year, recurring contracts.<sup>17</sup>
- (22) Based on the above considerations and the Reasoned Opinion, the Commission concludes that FIS fulfils the criterion of having experience in providing financial services in a regulated environment to individual banks or to banking communities and has a strategic desire to build long-term business relationships in the sector.
- (c) Experience in operating relevant business and IT services
- (23) The Commission notes that FIS has a proven record of delivering IT ecosystems in areas such as the processing of payment transactions, securities or other financial instruments. FIS has several contracts across the globe to provide mission critical software and services across various industry sectors, such as banking, capital markets, wealth management, market infrastructure, government, insurance, and retail. Examples of mission critical and services provided by FIS include notably payment networks, card acquiring and issuing, core banking systems, payment hubs, payment connections and processing, ATM networks, *etc.*<sup>18</sup>
- (24) Based on the above considerations and the Reasoned Opinion, the Commission concludes that FIS fulfils the criterion of having experience in operating relevant business and IT services to deliver, operate and develop software and operational processes.

---

<sup>13</sup> See notably case M.9357 – *FIS/Worldpay*, decision of 5 July 2019.

<sup>14</sup> Reasoned Opinion, Section 6.3.

<sup>15</sup> Reasoned Opinion, Section 6.4.2.

<sup>16</sup> See FIS Annual Report (2019), p.21.

<sup>17</sup> Reasoned Opinion, Section 6.4.2.

<sup>18</sup> Reasoned Opinion, Section 6.4.3.

(d) Expertise in the provision of A2A CIS

- (25) The Reasoned Opinion reveals that, since 2015, FIS has participated in many A2A CIS tenders worldwide (including several tenders in the EEA/UK), either in consortia or as a standalone bidder.<sup>19</sup> The Commission also notes that, in the context of the market investigation, some market participants stated that FIS could credibly and effectively compete for the provision of A2A CIS in the EEA/UK.<sup>20</sup> A competitor also stressed that “*large financial services solution providers such as FIS [...] have invested [in A2A CIS]*”.<sup>21</sup>
- (26) Based on the above considerations and the Reasoned Opinion, the Commission concludes that FIS fulfils the criterion of having expertise in the provision of A2A CIS.

(e) Ability to offer complementary overlay services

- (27) The Commission observes that FIS currently offers complementary overlay services, including A2A payment services such as Open Banking Hub (*i.e.* a service allowing consumers to pay directly from their bank account in real-time, with no need to share their account details with a third party).<sup>22</sup> The company also provides component solutions that support various value-added services for its banking, merchant and capital markets clients around the globe, such as multi-proxy database, fraud analytics and identity management.<sup>23</sup>
- (28) Based on the above considerations and the Reasoned Opinion, the Commission concludes that FIS fulfils the criterion of having the ability to offer complementary overlay services, such as A2A payment services or other value added services.

2.1.3. *Incentives to maintain and develop the Assets*

- (29) As regards FIS’ incentives to maintain and develop the Assets, it appears from the Reasoned Opinion that FIS has closely followed the emerging real-time A2A CIS. FIS explained to the Monitoring Trustee that it has identified the segment as being strategic, recognizing the growing importance of real-time payments within financial services and of the A2A CIS segment in the processing value chain. The company’s incentive to compete actively in this market is illustrated by its participation in many A2A CIS tenders worldwide.<sup>24</sup> Acquiring the Assets offers FIS the opportunity to effectively and credibly compete in the A2A CIS market with a proven technology, which has an existing track-record in the EEA/UK. FIS will also be able to combine and integrate the Assets’ A2A CIS capabilities with other bank-side specific services included in its portfolio. Based on the above, the Monitoring Trustee considers that the acquisition of the Assets is consistent with FIS’ real-time payments vision and strategy going forward.<sup>25</sup>
- (30) In addition, based on its discussions with the industry expert, the Monitoring Trustee observes that FIS’ projections for the Assets appear realistic. The Commission also

---

<sup>19</sup> Reasoned Opinion, Section 6.4.4.

<sup>20</sup> See question 25 of questionnaire Q1 to competitors.

<sup>21</sup> See question 33 of questionnaire Q1 to competitors.

<sup>22</sup> See <https://www.fisglobal.com/en/merchant-solutions-worldpay/products/fis-open-banking-hub>.

<sup>23</sup> Reasoned Opinion, Section 6.4.5.

<sup>24</sup> See Section 2.1.2.2(d) above.

<sup>25</sup> Reasoned Opinion, Sections 6.4.2 and 6.5.



notes that, under these forecasts, the Assets are expected to be highly profitable. Therefore, the Commission considers that the Assets constitute an attractive investment for FIS, which will thus be highly incentivised to ensure the success of the acquired business.<sup>26</sup>

- (31) Based on the information above and the Reasoned Opinion, the Commission considers that FIS has the incentives to maintain and develop the Assets.

#### 2.1.4. Access to sufficient and sufficiently capable staff

- (32) Paragraph 75 of the Commitments provide for the transfer of Key Personnel, consisting of 18-19 individuals that are currently employed by Nets (Group A Key Personnel) and 14-19 individuals that are currently outsourced employees (Group B Key Personnel).

- (33) Group A Key Personnel: FIS decided to recruit only 11 out of 18-19 individuals constituting the Group A Key Personnel. FIS explained that the above 11 individuals have specific knowledge and expertise in the Licensed Technology, its functionality and architecture that need to be transferred.<sup>27</sup> Conversely, in FIS' view, the remaining 7-8 individuals relate to more generic functions that do not need prior experience with the Licensed Technology (including commodity functions such as the provision of datacentres). According to the Monitoring Trustee and the industry expert, FIS being a global provider of financial services technology,<sup>28</sup> the company already has the required resources with the relevant skills. FIS also considers that it will be more cost efficient to rely on these existing resources, which can benefit from both the experience of the 11 individuals transferred as part of the Assets and the trainings provided under the Transitional Service Agreements. The individual exerting the functions of hold-separate manager deems FIS' selection to be sensible and acknowledges that FIS has chosen Key Employees for functions that are specific to the Licensed Technology, while excluding those in more generic functions. He also indicated that, in his view, [...] and that both on the considerations which roles to fill with Key Employees and [...], he "*would probably have done it in the same way*".<sup>29</sup>

- (34) Group B Key Personnel: FIS does not wish to pursue the relationship with the Group B Personnel on the ground that it has existing outsourcing arrangements with external partners that are sufficient to provide all support necessary for the Assets. FIS confirmed that its external partners have experience or capabilities in working on A2A CIS projects.

- (35) In line with the Monitoring Trustee and the Industry Expert,<sup>30</sup> the Commission deems the above approach reasonable and considers that it would not affect the viability and competitiveness of the Assets.

- (36) In view of the foregoing and the Reasoned Opinion, the Commission concludes that FIS fulfils the criterion of having at its disposal, by virtue of the Personnel Transfer

---

<sup>26</sup> Reasoned Opinion, Section 7.2.2.

<sup>27</sup> This includes the following roles: Product Manager (2), Architect (1), Developer (4), Test (2), Infrastructure Project Manager (1) and Infrastructure Architect (1).

<sup>28</sup> See Sections 2.1.2.2(b) and (c) above.

<sup>29</sup> Reasoned Opinion, Section 5.4.3.

<sup>30</sup> Reasoned Opinion, Section 5.4.3 and Section 6.7.

Commitment in light of its own resources, sufficient and sufficiently capable staff in order to compete effectively in the market for the provision of A2A CIS services in the EEA/UK.

#### 2.1.5. *Absence of prima facie competition problems*

- (37) First, the Commission notes that, based on the results of the market investigation, albeit FIS is viewed by some respondents as a potential entrant in the market for the provision of A2A CIS,<sup>31</sup> the company is not generally seen as a current credible competitor able to bid on its own. In fact, the Commission found that the main competitors of Mastercard and the Target in the EEA/UK are Equens, SIA and STET.<sup>32</sup>
- (38) Moreover, the acquisition of the Assets by FIS will not trigger any merger control or other regulatory filing in the EEA/UK or in other jurisdictions.<sup>33</sup>
- (39) In light of the above and the Reasoned Opinion, the Commission considers that the acquisition of the Assets by FIS is neither likely to create *prima facie* competition concerns, nor to give rise to a risk that the implementation of the Commitments will be delayed.

#### 2.1.6. *Conclusion*

- (40) In view of the foregoing, the Commission concludes that FIS meets the Remedy Taker Criteria as set out in paragraph 14 of the Commitments.

### **2.2. The Assets are being provided in a manner consistent with the Commitments**

- (41) The Monitoring Trustee observed no deviations between the Commitments and the Transaction Agreements with the exception of the Key Personnel Transfer Commitment, since FIS decided to recruit only some of the individuals constituting the Key Personnel. For the reasons set out above in Section 2.1.4, in line with the conclusion of the Monitoring Trustee and the industry expert,<sup>34</sup> the Commission considers that the above deviations do not affect in any way the viability and competitiveness of the Assets after the sale. Therefore, the Commission concludes that the Assets are being provided in a manner consistent with the Commitments including their objective to bring about a lasting structural change in the market.

### **3. CONCLUSION**

- (42) On the basis of the above assessment, the Commission approves FIS as a suitable Remedy Taker for the Assets.
- (43) On the basis of the Transaction Agreements, the Commission further concludes that the Assets are being provided in a manner consistent with the Commitments.
- (44) The present decision only constitutes approval of the proposed Remedy Taker identified herein and of the Transaction Agreements. This decision does not

---

<sup>31</sup> See Section 2.1.2.2(d) above.

<sup>32</sup> See Decision, paras. 63-65.

<sup>33</sup> Reasoned Opinion, Section 6.6.

<sup>34</sup> Reasoned Opinion, Section 5.4.

constitute a confirmation that Mastercard and/or Nets have complied with the Commitments.

- (45) The present decision is based on paragraph 15 of the Commitments attached to the Decision of 17 August 2020.

*For the Commission*

*(Signed)*  
*Olivier GUERSENT*  
*Director-General*