

## Confidentiality Ring Undertakings: Adviser

### MARKET REVIEW INTO CARD-ACQUIRING SERVICES UNDERTAKINGS GIVEN BY [NAME OF ADVISER] TO THE PAYMENT SYSTEMS REGULATOR REGARDING ACCESS TO THE CONFIDENTIALITY RING FOLLOWING PUBLICATION OF THE INTERIM REPORT

#### WHEREAS

- (1) On 24 January 2019, the Payment Systems Regulator ('PSR') published the final Terms of Reference for its market review into the supply of card-acquiring services ('Market Review') carried out under Part 5 of the Financial Services (Banking Reform) Act 2013 ('FSBRA').
- (2) In 2019, the PSR published four working papers together with the questionnaire for the merchant survey. The PSR received comments on these from interested parties.
- (3) The PSR published an interim report into the Market Review (the 'Interim Report') on [date] 2020. As part of the Market Review, the PSR received information and data from a number of parties which the PSR has used and taken into account in producing the Interim Report.
- (4) The PSR has decided to disclose the following material:
  - a. data used in the pass-through analysis

#### monthly merchant level sample data

The data consist of randomly drawn samples of 2000 merchants received from five acquirers in response to PSR information requests using data templates, four samples for each acquirer. The samples provide monthly data for the period 2014 to 2018.

The data can be broken down into the following categories:

1. MSC – the total amount the merchant paid to the acquirer for card-acquiring services in the month in question
2. Fees that the acquirer pays for the merchant's transactional activity, broken down by category of transaction (the type of card, location (domestic UK, other domestic, intra-EEA, other) and channel (face-to-face, e-commerce etc.)), comprising:
  - interchange fees paid by the acquirer to the issuer for the merchant's transactional activity

- scheme fees paid by the acquirer to Mastercard and Visa for the merchant's transactional activity
3. Merchant characteristics, including (but not limited to):
- merchant ID
  - volume of transactions, broken down by type of transaction
  - value of transactions, broken down by type of transaction
  - number of outlets the merchant has
  - month and year of the merchant's first transaction with the acquirer
  - how the merchant was signed up
  - the pricing option the merchant has (blended, IC+, IC++, other or unknown)
  - merchant category code
  - the fees paid by merchants to acquirers for card acceptance products and certain value-added services (CAP).

The data will be disclosed in comma separated values (.csv) format.

The data underlie the pass-through analysis and provide additional background information in other areas of the Interim Report.

#### other data

Data on the proportion of total card turnover each of the five acquirers had in 2016, which is made use of in one of the robustness tests.

- b. the code used to clean the data and perform the econometric pass-through analysis

The code comprises:

- 5 cleaning files, one for each acquirer: imports the raw datasets (.csv files) into Stata files, integrates each individual acquirer's CAP files, cleans and simplifies (prepares variables, removes outliers).
- 1 append and transform file: joins the five datasets into a master dataset, makes variables consistent, performs additional data cleaning and imputes missing data.
- 1 analysis file: runs regressions using the master dataset.
- 1 descriptive statistics file: calculates a set of descriptive statistics to be presented in the pass-through annex to the interim report.

All the code is in Stata's .do file format.

(the 'Disclosed Material') by means of a confidentiality ring commencing on [date] ('the Confidentiality Ring'). A reference to the Disclosed Material in these undertakings includes a reference to any part of the Disclosed Material.

- (5) The PSR considers that the 'Disclosed Material' includes confidential information within the meaning of section 91 of FSBRA to which the general restriction on disclosure applies. The PSR may disclose confidential information to any other person in circumstances permitted by section 92 of FSBRA.
- (6) The PSR has decided to disclose the Disclosed Material to certain parties to the Market Review (each a 'Relevant Party') by means of the Confidentiality Ring pursuant to section 92 of FSBRA and regulation 3(2) of the Financial Services (Banking Reform) Act 2013 (Disclosure of Confidential Information) Regulations 2014. Access to the Confidentiality Ring is restricted to the external legal and/or economic advisers of the Relevant Parties and is provided for the sole purpose of allowing the advisers of a Relevant Party, on behalf of the Relevant Party, to review and understand the PSR's analyses, to prepare submissions and representations to the PSR regarding the Market Review, and (if relevant) to prepare and conduct an appeal against any decision of the PSR in connection with the Market Review, including an appeal in which the Relevant Party is, or is intending to apply to be, an intervener, in which case the arrangements established by these Undertakings may be extended to apply for the purposes of such appeal ('the Permitted Purpose').
- (7) Access to the Confidentiality Ring will be granted to, and only to, an adviser:
  - a. who has been approved in writing by the PSR;
  - b. who has given written undertakings acceptable to the PSR ('the Individual Undertakings'); and
  - c. if relevant, in respect of whom the adviser's firm/employer has given written undertakings acceptable to the PSR ('the Firm Undertakings');in accordance with arrangements specified by the PSR (each such adviser being an 'Authorised Adviser').
- (8) The number of Authorised Advisers is limited to [X] for each Relevant Party.
- (9) The arrangements for obtaining PSR approval of an adviser and for giving undertakings in respect of an adviser are:

- a. by 4pm on the PSR Working Day<sup>1</sup> before the date on which access to the Confidentiality Ring has been granted to the adviser ('the Access Date') the Individual Undertakings signed by the adviser and, if relevant, the Firm Undertakings signed on behalf of the adviser's firm/employer, must be provided to (and received by) the PSR;<sup>2</sup>
  - b. before the adviser attempts to access the Confidentiality Ring confirmation in writing must be obtained from the PSR that it has approved the adviser and has accepted the signed Individual Undertakings and, if relevant, the signed Firm Undertakings.
- (10) Subject to the Individual Undertakings and the Firm Undertakings, the PSR will make the Disclosed Material available to the Authorised Advisers through a secure method of data transfer ("the HighQ system"). The PSR will register one email address, corresponding to one named Authorised Adviser per firm, onto the HighQ system to facilitate transfer.
- (11) Each Authorised Adviser will then be permitted:
- a. to download the Disclosed Material from the HighQ system into a secure folder on computers with the specifications set out below and accessible to the Authorised Advisers only (each a 'Secure Computer'). Each Secure Computer must have the following specifications:
    - it must be password-protected
    - the storage media (except for the USB ports) must have been disabled and
    - it may be networked to the other Secure Computers;
  - b. to download the Disclosed Material from the HighQ system into a secure folder on a server of the Authorised Adviser's firm/employer accessible to the Authorised Advisers only; and
  - c. to print copies provided each Authorised Adviser only has one hard copy in existence at any one time (each a 'Permitted Copy').
- (12) Disclosure of the Disclosed Material other than in accordance with the Individual Undertakings is not permitted without the express and prior written consent of the PSR. Breach of the Individual Undertakings by an Authorised Adviser may result in:

---

<sup>1</sup> A 'PSR working day' is any day of the week, Monday to Friday, on which the PSR's offices are open (and excludes public or bank holidays).

<sup>2</sup> Receipt of scanned copies of signed undertakings is acceptable to the PSR.

- a. the PSR:
  - i. terminating the Authorised Adviser's access to the Confidentiality Ring and refusing the Authorised Advisor access to any subsequent disclosure room or confidentiality ring run by the PSR, whether relating to the Market Review or any other investigation;
  - ii. where relevant, referring the breach to the Authorised Adviser's regulatory body which may decide to take disciplinary action in relation to the breach.
- b. a breach by the Authorised Adviser of his or her obligations under section 91 of FSBRA (as regards the disclosure and use of the Disclosed Material) which constitutes a criminal offence under section 93 of FSBRA;

(13) The Permitted Purpose must be completed no later than the date of the expiry of the period for appealing against the PSR's final report in the Market Review (unless [Name of Party] appeals the final report or is an intervener in relation to such an appeal in which case the arrangements established by these Undertakings may be extended to apply for the purposes of such appeal) at which point all documents in whatever format incorporating any of the Disclosed Material, other than those documents which have been submitted to the PSR and subject to paragraph 11 below must be destroyed or rendered inaccessible in the case of electronic documents. The PSR requires Authorised Advisers to confirm the destruction or inaccessibility of such documents by email, specifying the manner of destruction or, in the case of electronic documents, how they have been rendered inaccessible, on or before the date of the expiry of the period for appealing against the PSR's final report in the Investigation (unless [Name of Party] appeals the final report or is an intervener in relation to such an appeal in which case the arrangements established by these Undertakings may be extended to apply for the purposes of such appeal).

(14) [Name of Firm] has been instructed by [Name of Party], which is a Relevant Party, for the purpose of providing [legal/economic] advice to [Name of Party] in relation to the Market Review. [Name of Adviser] is employed by [Name of Firm] as a [legal/economic adviser] [a partner in [Name of Firm]].

## NOW THEREFORE

I, [Name of Adviser], [Job title] at [Name of Firm], which has been engaged by [Name of Party] in connection with the Market Review, undertake to the PSR in my own name:

1. To access the Disclosed Material only through the Permitted Copies and in the secure electronic format provided by the PSR using only:
  - a. a computer which is password-protected and accessible to only the Authorised Advisers of [Name of Party]; or
  - b. a secure folder on the server of the Authorised Adviser's firm/employer to which only the Authorised Advisers of [Name of Party] have access (such access to be controlled by appropriate information barriers and privacy settings of no less a standard than would be applied to personal data or price sensitive client information held by the Authorised Adviser's firm/employer, or the firm/employer's own commercially sensitive information, and any variation of these access permissions is to be made only with the express written consent of the PSR);
2. To use the Disclosed Material for, and only for, the Permitted Purpose;
3. Save as provided in paragraphs 6 and 7, to hold the Disclosed Material in strict confidence and not to disclose or make available in any manner the Disclosed Material to any other person (including any other legal adviser, economic adviser, officer or employee of [Name of Firm] and [Name of Party]) except:
  - a. another Authorised Adviser of [Name of Party], or
  - b. a member of PSR staff working on the Market Review (or the court if in the course of an appeal),(such a person being a 'Non-Authorised Person');
4. Not to make any electronic or non-electronic copy in any format of the Disclosed Material other than the Permitted Copies, save that I may copy the Disclosed Material for, and only for, the purposes of preparing a summary, report or submission within the scope of the Permitted Purpose;
5. To ensure that, save as provided in paragraphs 6 and 7, any document (including any summary, report or submission) I prepare, or analysis I undertake, which contains or refers to the Disclosed Material or which derives wholly or partially from the Disclosed Material is not used, disclosed or made available in any way to:
  - a. disclose the Disclosed Material to any Non-Authorised Person; or
  - b. enable or assist any Non-Authorised Person to gain an understanding of [Name of Party]'s position or potential future position in any market relative to any other market operator (other than relative to a market wide benchmark) and in particular does not reveal any data, either by acquirer

or in aggregate, on the level of merchant service charges, of other fees paid by merchants to acquirers, of fees paid to card payment system operators ('scheme fees'), of fees paid to card issuers ('interchange fees'), of the volume or value of transactions, or any absolute or relative indicators relating to the acquirers' business operations;

6. For the avoidance of doubt, while I may share a non-confidential version of any summary, report or submission with [Name of Party] to facilitate the Permitted Purpose, I will not share any such document with [Name of Party] until after the PSR has confirmed in writing to an Authorised Adviser of [Name of Party] that the non-confidential summary, report or submission does not include any of the Disclosed Material and meets the requirements in paragraph 5 (including by making the necessary redactions);
7. While I may share the non-confidential conclusion of my assessment of the Disclosed Material with [Name of Party], which must be no longer than is reasonably necessary to facilitate the Permitted Purpose, I will not share the non-confidential conclusion with [Name of Party] until after the PSR has confirmed in writing to an Authorised Adviser of [Name of Party] that the document does not include any of the Disclosed Material and meets the requirements in paragraph 5;
8. To ensure that any submission I prepare containing or referring to the Disclosed Material is submitted to the PSR separately from any other submission on behalf of [Name of Party], highlights any Disclosed Material and is accompanied by any working files (including 'Stata-do-files') used to perform any analysis referred to in the submission;
9. To keep secure at all times:
  - a. the Disclosed Material and the Permitted Copies provided to me; and
  - b. any summary, report, submission or other document prepared by or provided to me which contains or refers to the Disclosed Material(together the 'Relevant Material and Documents'), including in a manner which means the Relevant Material and Documents are not accessible to any Non-Authorised Person;
10. That, save as provided in paragraph 11, within 5 PSR Working Days of the relevant concluding event I will:
  - a. return to the PSR or destroy the Relevant Material and Documents or, where the Relevant Material and Documents are in electronic form and their destruction is not possible, to return them to the PSR or render

them inaccessible from any computer system, disk or device so that they are not readily available to any person; and

- b. where the Relevant Material and Documents are destroyed or rendered inaccessible, inform the PSR of the manner of the destruction or rendering inaccessible;

The relevant concluding event is:

- i. if there is an appeal against a decision of the PSR in connection with the Market Review in which [Name of Party] is a party or is intervening, the conclusion of the appeal;
  - ii. if there is no such appeal, the expiry of the period for bringing such an appeal, or
  - iii. if I cease to advise [Name of Party] in relation to the Market Review or appeal before the event specified by (i) or (ii), my ceasing to advise [Name of Party] in relation to the Market Review or appeal.
11. That, while the Authorised Advisers of [Name of Firm] may retain one copy (between them) of the Disclosed Material, Permitted Copies and any summary, report, submission or other document which contains or refers to the Disclosed Material if it is required to comply with [Name of Firm]'s professional indemnity insurance policy or any applicable law, legislation or court order, I will ensure that:
- a. the copy is stored securely in accordance with the undertaking in paragraph 9;
  - b. the PSR is notified of the retention within 5 PSR Working Days of the relevant concluding event specified by paragraph 10(i) or (ii); and
  - c. the PSR is consulted as far as practicable prior to any disclosure of the copy under [Name of Firm]'s professional indemnity insurance policy or any applicable law, legislation or court order;
12. To notify the PSR immediately if I become aware of or suspect that there has been a breach of:
- a. these undertakings;
  - b. the Individual Undertakings given by another Authorised Adviser of [Name of Party]; or
  - c. the Firm Undertakings given in respect of any of the Authorised Advisers of [Name of Party].

**PROVIDED THAT**

These undertakings shall not apply to any part of the Disclosed Material that:

- i) belongs or relates solely to [Name of Party] or to [Name of Party]'s business and which does not include any confidential information belonging to, relating to or deriving solely or partially from any other party to the Market Review;
- ii) is information that has previously been disclosed by the PSR to [Name of Party] in the Market Review;
- iii) at the time of disclosure is in the public domain or subsequently comes into the public domain, except through breach of these undertakings, the Individual Undertakings given by other Authorised Advisers or the Firm Undertakings;
- iv) is required to be disclosed by law, legislation or court order, as long as, and unless prohibited by law, legislation or court order, I consult with the PSR as far as practicable prior to the proposed disclosure on the proposed forum, timing, nature and purpose of the proposed disclosure; or
- v) is covered by a confidentiality ring established by the Competition Appeal Tribunal in the course of an appeal against the decision of the PSR in connection with the Market Review in which [Name of Party] is a party or is intervening.

**AND IN AGREEMENT THAT**

These undertakings shall be governed by and construed in accordance with English law and I submit to the exclusive jurisdiction of the courts of England and Wales to hear and decide any action or proceedings which may arise out of, or in connection with these undertakings.

[Name of Party] has given full and informed consent to the terms of these undertakings, including the restrictions placed upon [Name of Adviser] on the disclosure of information by these undertakings.

[Name of Adviser] of [Name of Firm]

[signature]

[Date]



## Confidentiality Ring Undertakings: Firm

### MARKET REVIEW INTO CARD-ACQUIRING SERVICES UNDERTAKINGS GIVEN BY [NAME OF FIRM] TO THE PAYMENT SYSTEMS REGULATOR REGARDING ACCESS TO THE CONFIDENTIALITY RING FOLLOWING PUBLICATION OF THE INTERIM REPORT

#### WHEREAS

- (1) On 24 January 2019, the Payment Systems Regulator ('PSR') published the final Terms of Reference for its market review into the supply of card-acquiring services ('Market Review') carried out under Part 5 of the Financial Services (Banking Reform) Act 2013 ('FSBRA').
- (2) In 2019, the PSR published four working papers together with the questionnaire for the merchant survey. The PSR received comments on these from interested parties.
- (3) The PSR published an interim report into the Market Review (the 'Interim Report') on [date] 2020. As part of the Market Review, the PSR received information and data from a number of parties which the PSR has used and taken into account in producing the Interim Report.
- (4) The PSR has decided to disclose the following material:
  - a. data used in the pass-through analysis

#### monthly merchant level sample data

The data consist of randomly drawn samples of 2000 merchants received from five acquirers in response to PSR information requests using data templates, four samples for each acquirer. The samples provide monthly data for the period 2014 to 2018.

The data can be broken down into the following categories:

1. MSC – the total amount the merchant paid to the acquirer for card-acquiring services in the month in question
2. Fees that the acquirer pays for the merchant's transactional activity, broken down by type of transaction (the type of card, location (domestic UK, other domestic, intra-EEA, other) and channel (face-to-face, e-commerce etc.)), comprising:
  - interchange fees paid by the acquirer to the issuer for the merchant's transactional activity

- scheme fees paid by the acquirer to Mastercard and Visa for the merchant's transactional activity
3. Merchant characteristics, including (but not limited to):
- merchant ID
  - volume of transactions, broken down by type of transaction
  - value of transactions, broken down by type of transaction
  - number of outlets the merchant has
  - month and year of the merchant's first transaction with the acquirer
  - how the merchant was signed up
  - the pricing option the merchant has (blended, IC+, IC++, other or unknown)
  - merchant category code
  - the fees paid by merchants to acquirers for card acceptance products and certain value-added services (CAP).

The data will be disclosed in comma separated values (.csv) format.

The data underlie the pass-through analysis and provide additional background information in other areas of the Interim Report.

#### other data

Data on the proportion of total card turnover each of the five acquirers had in 2016, which is made use of in one of the robustness tests.

- b. the code used to clean the data and perform the econometric pass-through analysis

The code comprises:

- 5 cleaning files, one for each acquirer: imports the raw datasets (.csv files) into Stata files, integrates each individual acquirer's CAP files, cleans and simplifies (prepares variables, removes outliers).
- 1 append and transform file: joins the five datasets into a master dataset, makes variables consistent, performs additional data cleaning and imputes missing data.
- 1 analysis file: runs regressions using the master dataset.
- 1 descriptive statistics file: calculates a set of descriptive statistics to be presented in the pass-through annex to the interim report.

All the code is in Stata's .do file format.

(the 'Disclosed Material') by means of a confidentiality ring commencing on [date] ('the Confidentiality Ring'). A reference to the Disclosed Material in these undertakings includes a reference to any part of the Disclosed Material.

- (5) The PSR considers that the 'Disclosed Material' includes confidential information within the meaning of section 91 of FSBRA to which the general restriction on disclosure applies. The PSR may disclose confidential information to any other person in circumstances permitted by section 92 of FSBRA.
- (6) The PSR has decided to disclose the Disclosed Material to certain parties to the Market Review (each a 'Relevant Party') by means of the Confidentiality Ring pursuant to section 92 of FSBRA and regulation 3(2) of the Financial Services (Banking Reform) Act 2013 (Disclosure of Confidential Information) Regulations 2014. Access to the Confidentiality Ring is restricted to the external legal and/or economic advisers of the Relevant Parties and is provided for the sole purpose of allowing the advisers of a Relevant Party, on behalf of the Relevant Party, to review and understand the PSR's analyses, to prepare submissions and representations to the PSR regarding the Market Review, and (if relevant) to prepare and conduct an appeal against any decision of the PSR in connection with the Market Review, including an appeal in which the Relevant Party is, or is intending to apply to be, an intervener, in which case the arrangements established by these Undertakings may be extended to apply for the purposes of such appeal ('the Permitted Purpose').
- (7) Access to the Confidentiality Ring will be granted to, and only to, an adviser:
  - d. who has been approved in writing by the PSR;
  - e. who has given written undertakings acceptable to the PSR ('the Individual Undertakings'); and
  - f. if relevant, in respect of whom the adviser's firm/employer has given written undertakings acceptable to the PSR ('the Firm Undertakings');in accordance with arrangements specified by the PSR (each such adviser being an 'Authorised Adviser').
- (8) The number of Authorised Advisers is limited to [X] for each Relevant Party.
- (9) The arrangements for obtaining PSR approval of an adviser and for giving undertakings in respect of an adviser are:

- a. by 4pm on the PSR Working Day<sup>3</sup> before the date on which access to the Confidentiality Ring has been granted to the adviser ('the Access Date') the Individual Undertakings signed by the adviser and, if relevant, the Firm Undertakings signed on behalf of the adviser's firm/employer, must be provided to (and received by) the PSR;<sup>4</sup>
  - b. before the adviser attempts to access the Confidentiality Ring confirmation in writing must be obtained from the PSR that it has approved the adviser and has accepted the signed Individual Undertakings and, if relevant, the signed Firm Undertakings.
- (10) Subject to the Individual Undertakings and the Firm Undertakings, the PSR will make the Disclosed Material available to the Authorised Advisers through a secure method of data transfer ("the HighQ system"). The PSR will register one email address, corresponding to one named Authorised Adviser per firm, onto the HighQ system to facilitate transfer.
- (11) Each Authorised Adviser will then be permitted:
- a. to download the Disclosed Material from the HighQ system into a secure folder on computers with the specifications set out below and accessible to the Authorised Advisers only (each a 'Secure Computer'). Each Secure Computer must have the following specifications:
    - it must be password-protected
    - the storage media (except for the USB ports) must have been disabled and
    - it may be networked to the other Secure Computers;
  - b. to download the Disclosed Material from the HighQ system into a secure folder on a server of the Authorised Adviser's firm/employer accessible to the Authorised Advisers only; and
  - c. to print copies provided each Authorised Adviser only has one hard copy in existence at any one time (each a 'Permitted Copy').
- (12) Disclosure of the Disclosed Material other than in accordance with the Individual Undertakings is not permitted without the express and prior written consent of the PSR. Breach of the Individual Undertakings by an Authorised Adviser may result in:

---

<sup>3</sup> A 'PSR Working Day' is any day of the week, Monday to Friday, on which the PSR's offices are open (and excludes public or bank holidays).

<sup>4</sup> Receipt of scanned copies of signed undertakings is acceptable to the PSR.

- a. the PSR:
  - i. terminating the Authorised Adviser's access to the Confidentiality Ring and refusing the Authorised Advisor access to any subsequent disclosure room or confidentiality ring run by the PSR, whether relating to the Market Review or any other investigation;
  - ii. where relevant, referring the breach to the Authorised Adviser's regulatory body which may decide to take disciplinary action in relation to the breach.
- c. a breach by the Authorised Adviser of his or her obligations under section 91 of FSBRA (as regards the disclosure and use of the Disclosed Material) which constitutes a criminal offence under section 93 of FSBRA;

(13) The Permitted Purpose must be completed no later than the date of the expiry of the period for appealing against the PSR's final report in the Market Review (unless [Name of Party] appeals the final report or is an intervener in relation to such an appeal in which case the arrangements established by these Undertakings may be extended to apply for the purposes of such appeal) at which point all documents in whatever format incorporating any of the Disclosed Material, other than those documents which have been submitted to the PSR and subject to paragraph 11 below must be destroyed or rendered inaccessible in the case of electronic documents. The PSR requires Authorised Advisers to confirm the destruction or inaccessibility of such documents by email, specifying the manner of destruction or, in the case of electronic documents, how they have been rendered inaccessible, on or before the date of the expiry of the period for appealing against the PSR's final report in the Investigation (unless [Name of Party] appeals the final report or is an intervener in relation to such an appeal in which case the arrangements established by these Undertakings may be extended to apply for the purposes of such appeal).

(14) [Name of Firm] has been instructed by [Name of Party], which is a Relevant Party, for the purpose of providing [legal/economic] advice to [Name of Party] in relation to the Market Review. [Name of Adviser] is employed by [Name of Firm] as a [legal/economic adviser] [a partner in [Name of Firm]].

## NOW THEREFORE

[Name of Firm] which has been engaged by [Name of Party] in connection with the Market Review undertakes to the PSR that:

1. It will give only Authorised Advisers of [Name of Party] access to the Disclosed Material and only in accordance with the terms of the Individual Undertakings given by those Authorised Advisers;
2. It will notify the PSR immediately if it becomes aware of or suspects that there has been any breach of:
  - a. these undertakings;
  - b. the Individual Undertakings given by an Authorised Advisers of [Name of Party]; or
  - c. the other Firm Undertakings given in respect of any of the Authorised Advisers of [Name of Party].
3. It will notify the PSR immediately if any Authorised Adviser ceases to be at [Name of Firm] before:
  - a. if there is an appeal against a decision of the PSR in connection with the Market Review in which [Name of Party] is a party or is intervening, the conclusion of the appeal;
  - b. if there is no such appeal, the expiry of the period for bringing such an appeal.

Further, [Name of Firm] undertakes to the PSR to use its reasonable endeavours to ensure that the Authorised Advisers at [Name of Firm] comply with the Individual Undertakings which they have given.

#### **PROVIDED THAT**

These undertakings shall not apply to any part of the Disclosed Material that:

- i. belongs or relates solely to [Name of Party] or to [Name of Party]'s business and which does not include any confidential information belonging to, relating to or deriving solely or partially from any other party to the Investigation;
- ii. is information that has previously been disclosed by the PSR to [Name of Party] in the Market Review;
- iii. at the time of disclosure is in the public domain or subsequently comes into the public domain, except through breach of these undertakings, the Individual Undertakings or the other Firm Undertakings;

- iv. is required to be disclosed by law, legislation or court order, as long as, and unless prohibited by law, legislation or court order, [Name of Firm] consults with the PSR prior to the proposed disclosure on the proposed forum, timing, nature and purpose of the proposed disclosure; or
- v. is covered by a confidentiality ring established by the Competition Appeal Tribunal in the course of an appeal against the decision of the PSR in connection with the Investigation in which [Name of Party] is a party or is intervening.

**AND IN AGREEMENT THAT**

These undertakings shall be governed by and construed in accordance with English law and [Name of Firm] submits to the exclusive jurisdiction of the courts of England and Wales to hear and decide any action or proceedings which may arise out of, or in connection with these undertakings.

[Name of Party] has given full and informed consent to the terms of these undertakings and the Individual Undertakings given by the Authorised Advisers of [Name of Firm], including the restrictions placed upon those Authorised Advisers on the disclosure of information.

[Name of Firm]  
[signature]  
[Date]