

# Anticipated acquisition by Illumina, Inc. of Pacific Biosciences of California, Inc.

## Decision to refer

**ME/6795/18**

The CMA's decision to refer under section 33 of the Enterprise Act 2002 given on 27 June 2019.

### Introduction

1. Illumina, Inc. (**Illumina**) has agreed to acquire Pacific Biosciences of California, Inc. (**PacBio**) (the **Merger**). Illumina and PacBio are together referred to as the **Parties**.
2. On 18 June 2019, the Competition and Markets Authority (**CMA**) decided under section 33(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the Merger comprises arrangements that are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, and that this may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the United Kingdom (the **SLC Decision**).<sup>1</sup>
3. On the date of the SLC Decision, the CMA gave notice pursuant to section 34ZA(1)(b) of the Act to the Parties of the SLC Decision. However, in order to allow the Parties the opportunity to offer undertakings to the CMA for the purposes of section 73(2) of the Act, the CMA did not refer the Merger for a phase 2 investigation pursuant to section 33(3)(b) on the date of the SLC Decision.
4. Pursuant to section 73A(1) of the Act, if a party wishes to offer undertakings for the purposes of section 73(2) of the Act, it must do so before the end of the five working day period specified in section 73A(1)(a) of the Act. The SLC Decision stated that the CMA would refer the Merger for a phase 2 investigation pursuant to section 33(1) of the Act, and in accordance with

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<sup>1</sup> See <https://www.gov.uk/cma-cases/illumina-inc-pacific-biosciences-of-california-inc-merger-inquiry>.

section 34ZA(2) of the Act, if no undertakings for the purposes of section 73(2) of the Act were offered to the CMA by the end of this period (ie by 25 June 2019); if the Parties indicated before this deadline that they did not wish to offer such undertakings; or if the undertakings offered were not accepted.

5. On 25 June 2019, the Parties informed the CMA that they would not offer such undertakings to the CMA. Accordingly the CMA has decided to make a reference.

## **Decision**

6. Therefore, pursuant to section 33(1) of the Act and in accordance with section 34ZA(2) of the Act, the CMA has decided to refer the Merger to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 to conduct a phase 2 investigation.

**Colin Raftery**  
**Senior Director, Mergers**  
**Competition and Markets Authority**  
**27 June 2019**