

Anticipated acquisition by Taboola.com Ltd. of Outbrain Inc.

Summary of the CMA's decision on relevant merger situation and substantial lessening of competition

ME/6877-20

1. Taboola.com Ltd (**Taboola**) has agreed to acquire Outbrain Inc. (**Outbrain**) (the **Merger**). Taboola and Outbrain are together referred to as the **Parties**, and for statements referring to the future, as the **Merged Entity**.
2. In the UK, Taboola is active in the provision of digital advertising services, including content recommendation through a platform placed on publishers' webpages which displays ads for external content that users may be interested in reading under headings such as 'Content You May Like', 'Recommended for You' or 'Around the Web'. Outbrain is also active in digital advertising services in the UK, including content recommendation activities. The Parties' customers include advertisers (which include individual firms, media agencies and digital advertising service providers), publishers, digital media platforms and readers of publishers' websites.
3. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of Taboola and Outbrain is an enterprise, and that arrangements are in progress or in contemplation which, if carried into effect, will lead to these enterprises ceasing to be distinct as a result of the Merger. The CMA believes that the share of supply test is or may be met on the basis of an overlap between the Parties in the supply of content recommendation platform services to publishers in the UK and a combined share (by revenue) of [80-90]% with an increment of [30-40]%.
4. The CMA considered the impact of the Merger against the prevailing conditions of competition.

Frame of reference

Product scope

5. The Parties overlap in the supply in the UK of:
 - (a) content recommendation platform services to advertisers and publishers;

- (b) outstream video advertising platform services to advertisers and publishers; and
 - (c) other types of native advertising (eg 'in-feed' and 'in-content') platform services to advertisers and publishers.
- 6. The Parties' overlapping services can be characterised as two-sided platforms, with the Parties competing to attract advertisers on one side and publishers on the other. The CMA therefore considered whether it would be appropriate to assess the impact of the Merger within a single or separate frame(s) of reference. The CMA found that the competitive dynamics on the advertising side are different from those on the publishing side, such that the Parties are subject to different competitive constraints when dealing with advertisers and publishers. For this reason, the CMA conducted a separate assessment of the impact of the Merger on each side (taking into account the two-sided nature of these platform services where relevant).

Content recommendation platform services for publishers

- 7. **Content recommendation** is a type of advertising format which is displayed alongside editorial content on publishers' websites, and identifies other content that the website user may be interested in reading, often based on personalisation algorithms which use real-time data from users. When users click on these ads, they will be redirected to external webpages.
- 8. The CMA found that the evidence supported a frame of reference for content recommendation platform services to publishers in the UK. This was on the basis of evidence from the Parties' internal documents, the Parties' use of exclusivity agreements with publishers covering content recommendation specifically, and the views of third parties, who explained that other forms of digital advertising are not a substitute for content recommendation for most publishers. The CMA has therefore assessed the impact of the Merger on the supply of content recommendation platform services to publishers in the UK.

Outstream video advertising platform services for publishers

- 9. **Outstream video** is an independent video advertising unit that plays within an article page, feed, or any other location on the site, outside of any existing video player, as opposed to instream.
- 10. The CMA received mixed evidence from UK publishers on whether this product frame of reference should be widened. On a cautious basis, the CMA did not include other advertising formats and direct sales to advertisers as

part of the product scope and considered the impact of the Merger on the supply of outstream video advertising platform services to publishers.

11. However, it was not necessary for the CMA to reach a conclusion on this product frame of reference, since, as set out below, no competition concerns arise on any plausible basis.

Other native advertising platform services for publishers

12. **Native advertising** is advertising that follows the natural design, location and ad behaviour of the environment in which it is placed. It is designed to engage with consumers in more native, and, importantly, in most cases, non-promotional ways to be as relevant as possible and strengthen consumer ties to a brand. This is therefore a broad category, including advertising formats such as content recommendation, in-feed and in-content native advertising and native video advertising. The CMA uses the term '**other native advertising platform services**' to refer to the collection of native advertising formats other than content recommendation platform services and outstream video advertising platform services. Other native advertising platform services provided by the Parties include 'in-feed' and 'in-content'.
13. The evidence indicated that most publishers would respond to a small worsening of terms in other native advertising platform services by switching to other types of advertising. The CMA therefore considered that it may be appropriate to widen the product scope to non-search display advertising, which includes advertising formats other than native advertising. However, the CMA did not need to conclude on this product frame of reference as no concerns arise on any plausible basis, including in the supply of other native advertising platform services to publishers in the UK.

Non-search display advertising services for advertisers

14. On the advertiser side, the evidence supported a product scope that is wider than the provision of content recommendation, outstream video advertising, or other native advertising as individual markets. This wider market includes each of the three types of advertising considered above, other advertising formats and advertising services offered by owned-and-operated platforms (ie platforms which own the advertising space and market that space themselves, such as Facebook). In particular, evidence from the Parties' advertiser customers strongly indicated that they would switch their advertising budget to other forms of non-search display advertising as a result of a worsening in the quality of each of the three types of advertising considered above. The CMA

has therefore assessed the impact of the Merger on the supply of non-search display advertising services to advertisers in the UK.

Geographic scope

15. In relation to the geographic scope of the frame of reference, the CMA found that publishers with a UK readership find platforms with advertisers interested in advertising to UK customers more attractive. Similarly, advertisers wishing to target a UK audience prefer platforms partnering with publishers which have UK users. Evidence from the majority of competitors also indicated that their strength varies across different countries and that, for content recommendation, substantial barriers prevent entry and expansion in the UK market. The CMA therefore assessed the impact of the Merger on a UK-wide basis.

Theories of harm

16. The CMA has considered the following four theories of harm:
 - (a) horizontal unilateral effects in the supply of outstream video advertising platform services to publishers in the UK;
 - (b) horizontal unilateral effects in the supply of non-search display advertising platform services (including other native advertising platform services) to publishers in the UK;
 - (c) horizontal unilateral effects in the supply of non-search display advertising services to advertisers in the UK; and
 - (d) horizontal unilateral effects in the supply of content recommendation platform services to publishers in the UK;

Horizontal unilateral effects in the supply of (i) outstream video advertising platform services to publishers in the UK, (ii) non-search display advertising platform services (including other native advertising platform services) to publishers in the UK, and (iii) non-search display advertising services to advertisers in the UK

17. The evidence shows that there are strong alternative providers of outstream video advertising services and non-search display advertising platform services (including other native advertising platform services) to publishers in the UK. In particular, in relation to outstream video advertising, Teads has a strong market position and is much larger than the Parties combined. The

CMA also considers that Outbrain has very limited presence in the supply of outstream video advertising and that other providers are likely to be a more significant constraint on Taboola than Outbrain. In relation to non-search display advertising services, and in particular the supply of other native advertising platform services (eg 'in-feed' and 'in-content' services) to publishers in the UK, where the Parties overlap, the evidence shows that the Parties do not compete closely and, in any event, the Parties face competition from stronger alternative suppliers.

18. In relation to horizontal unilateral effects in the supply of non-search display advertising services to advertisers in the UK, the CMA found that while half of the advertisers responding to the CMA's investigation considered the Parties to be close competitors, the majority did not express concerns about the Merger. The CMA also considered that the Parties' combined share in the supply of non-search display advertising services to advertisers in the UK is likely to be lower than [0-5]%, and that Facebook and Google are both active in this frame of reference and have shares of supply that are significantly larger than the Parties.
19. Therefore, the CMA believes that the Merger would not result in a realistic prospect of a substantial lessening of competition (**SLC**) in the markets for the supply of outstream video advertising, the supply of non-search display advertising platform services (including any potential segment for the supply of other native advertising platform services) to UK publishers, or the supply of non-search display advertising services to advertisers in the UK.

Horizontal unilateral effects in the supply of content recommendation platform services to publishers in the UK

20. In relation to the supply of content recommendation platform services to publishers in the UK, the CMA found that the Merger would combine the two largest players in the supply of content recommendation platform services in the UK. As a result of the Merger, the Parties' combined share would be [80-90]%, with an increment of [30-40]%.
21. The CMA also found that the Parties are each other's closest competitor in the supply of content recommendation platform services to UK publishers. In particular, the CMA has seen a large number of the Parties' internal documents which suggest that the Parties consider each other to be close, and often their closest, competitor. These documents also show that they monitor each other's activity and attempt to win each other's customers. Third party responses to the CMA's investigation also indicated that both publishers and competitors consider Taboola and Outbrain to be each other's closest

competitor in the supply of content recommendation platform services to UK publishers.

22. The CMA found that none of the alternative suppliers mentioned by the Parties or third parties, individually or in combination, would exercise a significant competitive constraint on the Merged Entity. In particular, the few suppliers that currently compete with the Parties in the supply of content recommendation platform services to UK publishers are weaker than the Parties and do not have comparable scale in the UK.
23. The CMA also notes that the majority of publishers that responded to the CMA's investigation expressed concerns about the Merger.
24. On the basis of this evidence, the CMA found that the Merger raises significant competition concerns as a result of horizontal unilateral effects in relation to the supply of content recommendation platform services to publishers in the UK.

Countervailing factors

Entry and expansion

25. The CMA believes that there are significant barriers that will generally prevent the timely, likely and sufficient entry or expansion of competitors to mitigate any SLC arising from the Merger in the supply of content recommendation platform services to publishers in the UK.
26. In particular, the CMA considers that the Parties' exclusivity agreements may act as a barrier, as they prevent publishers from easily switching between platforms. The CMA also considers that this is a market characterised by strong network effects and innovation, suggesting that entry or expansion, particularly by smaller companies who would be competing with a very strong incumbent, with considerable market power which it is able to leverage in the form of exclusivity agreements, is likely to be difficult.
27. Notwithstanding these general findings on barriers to entry and expansion, the CMA has seen evidence that Google is currently developing a 'Multiplex Ads' product that may compete more directly with the Parties' content recommendation services (in addition to its Matched Content product, which has been active in the UK for some years, but which has gained minimal share of supply to date). The CMA therefore considered whether such expansion would be timely, likely and sufficient to prevent a realistic prospect of an SLC occurring as a result of the Merger.

28. In light of the significant concerns arising from the Merger in the supply of content recommendation platform services to UK publishers – including the Parties’ very high combined share of supply, the closeness of competition between the Parties and the limited constraint from other providers – the CMA would need strong evidence of sizeable and significant expansion in order to consider that such expansion would be sufficient to prevent a realistic prospect of an SLC occurring as a result of the Merger.
29. Although Google’s Multiplex Ads product is currently only at alpha testing phase, the available evidence indicates that expansion by Google may be both timely and likely. However, the evidence gathered by the CMA, including using its formal information-gathering powers, indicates that this expansion would not be sufficient to prevent a realistic prospect of an SLC arising from the Merger. In particular:
- (a) Google has been active in the supply of content recommendation platform services to UK publishers for many years through its ‘Matched Content’ product. However, it has only achieved a minimal share of supply of [0-5] %.
 - (b) It is unclear at this stage how closely ‘Multiplex Ads’ will compete with the Parties’ content recommendation services. To the extent that ‘Multiplex Ads’ are differentiated, for example by being more native in style and less focused on editorial and advertorial content, they are less likely to pose a significant constraint on the Parties.
 - (c) Evidence suggests that Google will face a number of challenges in growing its share of supply through its Multiplex Ads product, in particular the Parties’ internal documents indicate that the Parties consider that they will be able to defend their position.
30. The CMA therefore believes, on the basis of the available evidence, that expansion by Google in the supply of content recommendation platform services to publishers in the UK would **not be sufficient** to prevent a realistic prospect of an SLC as a result of the Merger.

Decision

31. The CMA therefore believes that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of content recommendation platform services to publishers in the UK.

32. The CMA considers that the Merger does not give rise to a realistic prospect of an SLC in relation to the supply of outstream video advertising platform services to publishers in the UK, the supply of non-search display advertising platform services (including other native advertising platform services) to publishers in the UK, or the supply of non-search display advertising services to advertisers in the UK.
33. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**) in relation to the supply of content recommendation platform services to publishers in the UK. The Parties have until 3 July 2020 to offer an undertaking to the CMA that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 33(1) and 34ZA(2) of the Act.