

Anticipated acquisition by Taboola.com Ltd of Outbrain Inc.

Decision to refer

ME/6877-20

The CMA's decision to refer under section 33 of the Enterprise Act 2002 given on 26 June 2020.

Introduction

1. Taboola.com Ltd (**Taboola**) has agreed to acquire Outbrain Inc. (**Outbrain**) (the **Merger**). Taboola and Outbrain are together referred to as the **Parties**.
2. On 26 June 2020, 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 consists of 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**).¹
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), and in accordance with section 34ZA(2) of the Act, if no undertakings for the purposes of section 73(2) of the

¹ See: <https://www.gov.uk/cma-cases/taboola-outbrain-merger-inquiry>.

Act were offered to the CMA by the end of this period (ie by 3 July 2020); if the Parties indicated before this deadline that they did not wish to offer such undertakings; or if the CMA decided under section 73A(2) of the Act that there were no reasonable grounds for believing that it might accept undertakings offered by the Parties, or a modified version of them.

5. No undertakings were offered by the Parties to the CMA before the end of the five working day period specified in section 73A(1)(a) of the Act (ie by 3 July 2020).

Decision

6. Therefore, pursuant to section 33(1) 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.

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Competition and Markets Authority
9 July 2020