

Completed acquisition by PUG LLC Of StubHub, Inc., StubHub (UK) Limited, StubHub Europe S.à.r.l., StubHub India Private Limited, StubHub International Limited, StubHub Taiwan Co., Ltd., StubHub GmbH, and Todoentradas, S.L.

Decision on relevant merger situation and substantial lessening of competition

ME/6868/19

Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

SUMMARY

1. On 13 February 2020, PUG LLC (**PUG**), a subsidiary of Pugnacious Endeavors, Inc (**viagogo**) purchased the whole of the issued share capital of StubHub, Inc., StubHub (UK) Limited, StubHub Europe S.à.r.l., StubHub India Private Limited, StubHub International Limited, StubHub Taiwan Co., Ltd., StubHub GmbH, and Todoentradas, S.L. (together, **StubHub**) (the **Merger**). viagogo and StubHub are together referred to as the **Parties** and, for statements referring to the future, as the **Merged Entity**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of viagogo and StubHub is an enterprise; that these enterprises have ceased to be distinct as a result of the Merger; and that the share of supply test is met. The four-month period for a decision has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
3. viagogo and StubHub are both globally-active providers of online exchange platforms for buying and selling tickets to live events. viagogo's stated rationale for the Merger is to enable it to enter the online ticketing sector in the US through StubHub, a primarily US-focused business.

4. Tickets for live events are typically sold initially on online primary ticketing websites at a face value set by event providers and content rights holders (**Primary Ticketing Platforms**). These tickets may then be made available for resale on 'two-sided' online platforms that enable ticket buyers and ticket resellers to buy and resell the tickets they have bought for music, sports and other live events (**Secondary Ticketing Exchange Platforms**). In the UK, the primary overlap between the Parties is in the supply of Secondary Ticketing Exchange Platforms. The CMA has therefore assessed the impact of the Merger on the supply of Secondary Ticketing Exchange Platforms in the UK.
5. The CMA notes that the Coronavirus (COVID-19) outbreak has had, at least in the short-term, a substantial impact on the live events and ticketing industries. However, there remains considerable uncertainty about the duration and long-term effects of this impact. A merger investigation typically looks beyond the short-term and considers what lasting structural impacts a merger might have on the relevant market. The CMA found no evidence indicating that the Coronavirus (COVID-19) outbreak will have a disproportionate impact on viagogo or StubHub relative to other providers of Secondary Ticketing Exchange Platforms. It therefore believes that the pre-Merger conditions of competition provide an appropriate proxy for assessing the lasting structural impact of the Merger on the secondary ticketing market. The CMA has taken into account foreseeable market developments based on the available evidence within its competitive assessment, where relevant.
6. The Parties have an extremely high combined share of supply of [80-90]% by gross transaction value in the supply of Secondary Ticketing Exchange Platforms in the UK, with a high increment of [30-40]% brought about by the Merger. The CMA found that viagogo is by far the largest player in the market, with StubHub its only significant competitor.
7. The CMA found that the Parties also compete closely, as evidenced by their service offerings (which are fundamentally very similar in enabling resellers to set their own prices on an uncapped basis), their internal documents and third party views. A number of third parties (including consumer groups) also expressed reasoned and competition-specific concerns in relation to the Merger.
8. As noted above, the CMA found that the Merged Entity would face no other significant competitors post-Merger; its next largest competitor in the supply of Secondary Ticketing Exchange Platforms, Ticketmaster, would have a significantly smaller share of only [5-10]% and all remaining competitors would have shares of less than [0-5]%. This is consistent with the position reflected in the Parties' internal documents and with feedback from third parties. The CMA therefore found that other Secondary Ticketing Exchange

Platforms only pose a weak competitive constraint on the Parties, both individually and in aggregate.

9. While the Parties submitted that Primary Ticketing Platforms are a strong alternative to the Secondary Ticketing Exchange Platforms of the Parties, the CMA found that such platforms are not considered close alternatives by ticket buyers and resellers. In addition, the Parties' internal documents and third party views did not indicate that Primary Ticketing Platforms pose a significant constraint on the Parties. The CMA found that the competitive constraint from other online channels, such as Facebook, and from offline ticket sales was also limited.
10. The CMA found that entry and/or expansion would not be sufficiently timely, likely or sufficient to offset the effects of the Merger on competition. The CMA found that there are significant barriers to entry and/or expansion, with network effects making it difficult for rivals to enter and expand: additional users on one 'side' of the market (eg ticket buyers) increase the attractiveness of a platform to users on the other side (eg ticket resellers). Since the Merged Entity would have such a high combined share of supply, the CMA believes that such network effects are likely to act as a substantial obstacle to competitors.
11. The CMA therefore believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in the supply of Secondary Ticketing Exchange Platforms in the UK.
12. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). The Parties have until 18 June 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 22(1) and 34ZA(2) of the Act.

ASSESSMENT

Parties

13. PUG is a Delaware limited liability company, wholly owned by viagogo. viagogo is a global provider of online platforms used by both businesses and individuals to buy and sell tickets to live events. viagogo is headquartered in Geneva, Switzerland, and operates across many jurisdictions, including the

UK. viagogo's worldwide turnover in 2019 was £[REDACTED], of which £[REDACTED] was generated in the UK.¹

14. StubHub is also a global provider of online platforms used by both businesses and individuals to buy and sell tickets to live events, operating across many jurisdictions, including in the UK. Prior to the Merger, StubHub was owned by eBay, Inc. (**eBay**).² StubHub is headquartered in California, United States (**US**), but the StubHub businesses subject to the Merger include companies that are located in the UK, Taiwan, Germany and Spain, amongst others. In 2016 eBay acquired Ticketbis, which is one of the StubHub subsidiaries transferring as part of the Merger. StubHub's worldwide turnover in 2019 was £[REDACTED], of which £[REDACTED] was generated in the UK.³

Transaction

15. PUG acquired 100% of the shares of StubHub from eBay for the consideration of USD \$4.05bn. A share purchase agreement was signed by eBay and PUG on 24 November 2019. The transaction completed on 13 February 2020.
16. The Merger was also notified to the United States Department of Justice. The initial waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 expired on 13 January 2020.

Rationale

17. viagogo submitted that the Merger would enable it to enter and compete in the US online ticketing sector by combining viagogo's expertise in paid search with StubHub's strong 'US supply position' in online ticketing.⁴ This rationale is supported by a number of viagogo internal documents which indicate that 'StubHub is the leading US Internet ticket marketplace' and which refer to its 'unmatched scale of supply and demand.'⁵ viagogo internal documents also indicate that viagogo intends to transform StubHub by a combination of [REDACTED].⁶
18. One viagogo internal document also indicates an alternative, broader transaction rationale for viagogo: namely, that the Merger is an opportunity to

¹ The Parties' Final Merger Notice, submitted 14 April 2020 (**FMN**), paragraph 51.

² FMN, paragraph 14.

³ FMN, paragraph 52.

⁴ FMN, paragraph 6; Parties' response to the CMA's Issues Letter, submitted 19 May 2020 (**Parties' response to the CMA's Issues Letter**), paragraph 8.

⁵ Annex 19 to the FMN, '[REDACTED]', page 12; Annex 18 to the FMN, '[REDACTED]', slide 3.

⁶ Annex 16 to the FMN, '[REDACTED]', slides 3 to 6; Annex 18 to the FMN, '[REDACTED]', slides 3 to 4; Annex 19 to the FMN, '[REDACTED]', pages 27, 34 to 35.

leverage the scale of the combined global distribution of the Parties and create a leading global player that will effectively '[REDACTED]'.⁷ This internal document notes that viagogo will not settle for '[REDACTED]', and that it has the vision to accelerate expansion, thereby '[REDACTED]'.⁸

19. viagogo submitted that enhancing viagogo's presence in the UK has neither been a driver for, nor a perceived advantage of, the Merger.⁹ However, viagogo's internal documents indicate that the Merged Entity was expected to be the number one market leader in all secondary ticket markets worldwide (including the UK) except [REDACTED].¹⁰

Procedure

20. The Merger was considered at a Case Review Meeting.¹¹

Jurisdiction

21. Each of viagogo and StubHub is an enterprise. As a result of the Merger, these enterprises have ceased to be distinct.
22. The Parties overlap in the supply of Secondary Ticketing Exchange Platforms in the UK, with a combined share of supply of [80-90]% (with an increment of [30-40]%) by gross transaction value (**GTV**) in 2019.¹² The CMA therefore believes that the share of supply test in section 23 of the Act is met.
23. The Merger completed on 13 February 2020. The four month deadline for a decision under section 24 of the Act is 13 June 2020.
24. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.

⁷ Annex 18 to the FMN, '[REDACTED]', slide 6.

⁸ Annex 18 to the FMN, '[REDACTED]', slides 5 to 6.

⁹ Parties' response to the CMA's Issues Letter, paragraph 9.

¹⁰ Annex 18 to the FMN, '[REDACTED]', slide 4.

¹¹ See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, from paragraph 7.34.

¹² CMA's estimates of the Parties' shares of supply in 2019 - see Table 1: **The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** below. The Parties estimated that they had a combined share of supply in the provision of online platforms for the sale and purchase of secondary tickets of [80-90]% in 2019 with an increment of [20-30]% brought about by the Merger (FMN, Table 6). GTV refers to the total that buyers pay for a ticket transaction, including any processing fee, postage fee etc. This includes income retained by both the ticket reseller and the platform provider. StubHub uses the equivalent term Gross Merchandise Sales (GMS) in its internal documents. The CMA has used GTV for its share of supply estimates as it considers this a more accurate metric than traffic data as it shows actual transactions which have taken place (rather than visits to a website). The CMA therefore considers that GTV is a reasonable and appropriate basis on which to calculate whether the share of supply test threshold set out in section 23 of the Act is met.

25. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 15 April 2020 and the statutory 40 working day deadline for a decision is therefore 11 June 2020.

Counterfactual

26. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers the CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.¹³
27. The Parties submitted that:
- (a) The outbreak of Coronavirus (COVID-19) has had a significant adverse impact on revenue generation in the ticketing industry, with most live events in the UK having been cancelled or postponed, thereby causing an unprecedented decrease in demand for tickets at both the Primary Ticketing Platform and Secondary Ticketing Exchange Platform levels.¹⁴
 - (b) There is no evidence that all ticketing players will be impacted in the same way by Coronavirus (COVID-19).¹⁵ [REDACTED].¹⁶
 - (c) While the longer-term consequences of Coronavirus (COVID-19) are currently unclear, Primary Ticketing Platforms are better placed for survival due to their control over inventory.¹⁷ The outbreak means that venues, promoters and content rights holders will need to '[REDACTED]'. This will lead to increased '[REDACTED]' tactics (that is, certain [REDACTED] tactics) by Primary

¹³ [Merger Assessment Guidelines](#) (OFT1254/CC2), September 2010, from paragraph 4.3.5. The [Merger Assessment Guidelines](#) have been adopted by the CMA (see [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, Annex D).

¹⁴ FMN, paragraphs 68 to 69; Parties' response to the CMA's Issues Letter, paragraph 17.

¹⁵ Parties' response to the CMA's Issues Letter, paragraph 18.

¹⁶ Parties' response to the CMA's Issues Letter, paragraph 16. StubHub has made a number of submissions in its requests for derogations from the Initial Enforcement Order imposed by the CMA on 7 February 2020 that pertain to the impact of Coronavirus (COVID-19) on its business, eg in its Letter Request for Derogation of [REDACTED] and Letter Request for Derogation of [REDACTED]. The CMA has not received any evidence in the course of its assessment of the Parties' requests to derogate from the obligations of the IEO that indicate that the Parties would be affected to a greater extent by Coronavirus (COVID-19) than their competitors.

¹⁷ FMN, paragraphs 68 to 69; Parties' response to the CMA's Issues Letter, paragraph 18.

Ticketing Platforms, and [REDACTED] on Secondary Ticketing Exchange Platforms.¹⁸

28. The CMA notes that the Coronavirus (COVID-19) outbreak has had, at least in the short-term, a substantial impact on the live events and ticketing industries. However, as the Parties acknowledge, there remains considerable uncertainty about the duration of this impact and the long-term effects on the secondary ticketing market. As set out in the CMA's recent guidance on merger assessments during the Coronavirus (COVID-19) outbreak, a merger control investigation typically looks beyond the short-term and considers what lasting structural impacts a merger might have on the markets at issue.¹⁹
29. In this context, the CMA notes that it has not received any evidence indicating that the Coronavirus (COVID-19) outbreak will have a disproportionate impact on either of the Parties relative to the rest of its competitors in the secondary ticketing market.
30. With respect to StubHub's business in particular, the CMA considers that in the absence of the Merger, there is a realistic prospect that StubHub [REDACTED]. During the [REDACTED]. On 20 November 2019, [REDACTED].²⁰
31. The CMA has not received any evidence to suggest that [REDACTED] StubHub would not have remained in the market or that StubHub would have been a substantially weakened competitor relative to its rivals as a result of the Coronavirus (COVID-19) outbreak. While it is uncertain whether [REDACTED] would be more competitive than the pre-Merger conditions of competition, the CMA considers that there is no reason to believe that StubHub [REDACTED] would be less competitive than the pre-Merger conditions of competition. The CMA therefore believes that the pre-Merger conditions of competition provide an appropriate proxy for the long-term competitive dynamics and structure of the secondary ticketing industry in the absence of the Merger.
32. As regards the Parties' submissions on [REDACTED] and the relative strength of Primary Ticketing Platforms over Secondary Ticketing Exchange Platforms in enduring the effects of the Coronavirus (COVID-19) outbreak, the CMA believes that the evidence does not support an alternative counterfactual. As noted in the frame of reference section (from paragraph 45(b)) and the competitive assessment section (from paragraph 133(a)), Primary Ticketing Platforms do not form part of the relevant frame of reference and there are limitations to the out-of-market constraint that they impose on Secondary

¹⁸ Parties' response to the CMA's Issues Letter, paragraph 18.

¹⁹ [Merger assessments during the Coronavirus \(COVID-19\) pandemic](#) (CMA120), 22 April 2020, paragraph 22.

²⁰ Annex 49 to the FMN, '[REDACTED]'.

Ticketing Exchange Platforms. The Parties have not provided any evidence to suggest that the nature or strength of this constraint is likely to change as a result of the Coronavirus (COVID-19) outbreak to such an extent as to support an alternative counterfactual.

33. Therefore, the CMA believes that the relevant counterfactual against which to assess the Merger is the pre-Merger conditions of competition, with StubHub remaining in the market independent of viagogo. The CMA has given further consideration to the effect of the Coronavirus (COVID-19) outbreak (including, as regards the Parties' submissions [redacted] strategies by Primary Ticketing Platforms), where relevant, as part of its competitive assessment.

Frame of reference

34. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger as there can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.²¹

Product scope

35. The Parties overlap in the supply of online platforms for the sale of tickets for events in the UK and, in particular, in the supply of Secondary Ticketing Exchange Platforms. The Parties also have some limited activities in the supply of Primary Ticketing Platforms.²² Examples of other suppliers of Primary Ticketing Platforms include Ticketmaster, Eventim, See Tickets and AXS, all of whom also operate Secondary Ticketing Exchange Platforms.
36. Through their Secondary Ticketing Exchange Platforms, the Parties operate in a two-sided market by offering their services to, and competing for, both buyers and resellers of tickets. Buyers are consumers (or 'fans') that wish to attend the event. Resellers consist of consumers that originally intended to attend the event but are now unable or do not wish to go, as well as

²¹ [Merger Assessment Guidelines](#), paragraph 5.2.2.

²² Using the Parties' estimates, the CMA calculated that the Parties' share of supply by GTV in the supply of Primary Ticketing Platforms in the UK was approximately [0-5]% ([0-5]% increment) in 2018 and [0-5]% ([0-5]% increment) in 2019 (this calculation used data from FMN, Tables 1, 2, 5 and 6). The CMA has not sought to verify the Parties' estimates but is satisfied on the basis of other available evidence that the Parties have only a minimal overlap in the supply of Primary Ticketing Platforms. It has not, therefore, considered the overlap in the Parties' activities in this respect further in this decision.

professional resellers (ie, individuals or businesses that buy tickets to resell at a profit). Secondary Ticketing Exchange Platforms charge fees to both buyers and resellers.²³ The price a purchaser pays for a ticket on a Secondary Ticketing Exchange Platform is passed on to the reseller, less the platform's fees.

37. The Parties submitted that the appropriate product frame of reference to assess the Merger is at least all online platforms for the sale of tickets for all types of live entertainment events, without further distinctions by channel (ie, type of online website), by event-type, or as between online Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms.²⁴
38. The CMA has previously considered online ticketing platforms in *Ticketmaster/Seatwave*,²⁵ in which the CMA concluded that there was a distinct frame of reference for the supply of online exchange platforms for selling and buying secondary tickets for all types of live entertainment events in the UK.²⁶
39. The CMA has taken the Parties' core overlap in Secondary Ticketing Exchange Platforms as the starting point for its assessment of the product frame of reference and considered whether this definition should be:
 - (a) narrowed to distinguish between:
 - (i) the buyer and reseller sides of the market;
 - (ii) different types of events; or
 - (b) widened to include:
 - (i) Primary Ticketing Platforms;
 - (ii) other online channels such as classified advertising websites, social networks, specialised platforms (eg for a specific venue or sport) and professional reseller websites.

²³ Secondary Ticketing Exchange Platforms typically charge buyer and/or seller fees which are a percentage of the ticket price. Some charge handling, transaction and/or postage fees which are typically fixed amounts (ie do not vary with the price of the ticket). There is some scope for Secondary Ticketing Exchange Platforms to set different terms and/or fees for different types of reseller. For example, viagogo offers more attractive payment terms to some resellers (Annex 82 to the FMN, 'Response to RFI 2', question 12).

²⁴ FMN, paragraph 82. The Parties characterised the market as '...at least all online platforms for the resale of tickets...' (emphasis added). However, since the Parties submitted that this market includes Primary Ticketing Platforms, the CMA has used the word 'sale' rather than 'resale' to avoid confusion.

²⁵ ME/6505/14 *Completed acquisition by Ticketmaster Europe Holdco Limited of Seatwave* (2015) ([Ticketmaster/Seatwave](#)).

²⁶ [Ticketmaster/Seatwave](#), paragraph 50.

Buyer and reseller sides of the market

40. As outlined above, Secondary Ticketing Exchange Platforms are two-sided products.^{27,28} In particular, the CMA considers that:
- (a) Secondary Ticketing Exchange Platforms are characterised by indirect network effects, whereby the attractiveness of the platform for one side of the market (eg buyers) is increased by sufficient presence of users (eg resellers) on the other side of the market (and vice versa).²⁹ This means that changes affecting one side of the platform will also affect the other side.
 - (b) A sale only occurs if there is both a buyer and a reseller. Both Parties supply services to both sides of the market.
 - (c) Any rise in the fees charged by Secondary Ticketing Exchange Platforms to resellers may also affect buyers (eg through higher ticket prices) and vice-versa. When assessing the impact of a rise in the fees, one ‘side’ of the market should not, therefore, be considered in isolation from the other.³⁰
41. Given these market features, and consistent with the CMA’s approach in *Ticketmaster/Seatwave*,³¹ the CMA has not identified separate frames of reference as between buyers and resellers. The CMA has taken account of any differences between the buyer and reseller sides of the market, where relevant, in its competitive assessment.

Different event types

42. The supply of Secondary Ticket Exchange Platforms may also be differentiated by event type. Both Parties facilitate the reselling and buying of secondary tickets for a range of types of live entertainment (eg music and festivals, theatre, comedy).

²⁷ In economic terms, two-sided products are platforms that intermediate between distinct and unrelated groups of customers; the number of customers in each group affects the profitability of the product, because the value that one group of customers realises from using the intermediary depends on the volume of customers from the other group (see [Merger Assessment Guidelines](#), paragraph 5.2.20 (second bullet point)).

²⁸ Market definition is a useful tool but the boundaries of the market do not determine the outcome of the competitive analysis of a merger in a mechanistic way. Market definition may be more complicated for two-sided products (see [Merger Assessment Guidelines](#), paragraph 5.2.2 and 5.2.20). Whether to include both sides in the same frame of reference, or instead adopt separate frames of reference, depends on both the facts of the case and a judgement on the appropriate approach to assessing the key issues in that case. In past cases, the CMA has adopted both approaches.

²⁹ See also the discussion of network effects in paragraph 163.

³⁰ See paragraph 52.

³¹ [Ticketmaster/Seatwave](#), paragraphs 27 to 29.

43. In *Ticketmaster/Seatwave*, the CMA concluded that it would focus on secondary tickets for all live entertainment events as its product frame of reference without segmenting by event type.³² The Parties did not make any submissions on whether these differences in event types should give rise to separate product markets. The CMA did not receive evidence to suggest that Secondary Ticketing Exchange Platforms should be differentiated on this basis. The CMA has therefore assessed all types of live entertainment events in its product frame of reference and has taken account of any differences between these event types, where relevant, in its competitive assessment.

Primary Ticketing Platforms

44. In *Ticketmaster/Seatwave*, the CMA found that Primary Ticketing Platforms should not be included in the same product frame of reference as Secondary Ticketing Exchange Platforms due to differences in the prices charged, with primary tickets (if still on sale at the time when secondary tickets are available) often being sold at a much lower price (for popular events) or a much higher price (for unpopular events) than secondary tickets.³³

The Parties' submissions

45. The Parties submitted that the distinction made between Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms in *Ticketmaster/Seatwave* is no longer appropriate because:
- (a) From a demand-side perspective, buyers are able to use a general online search engine (eg Google or Bing) and will be redirected to an online website that has tickets available, whether a Primary Ticketing Platform, a Secondary Ticketing Exchange Platform, or any other category of website selling tickets. The Parties submitted that because online searches will virtually always be event specific, any website is able to compete on equal terms for search rankings (especially paid search rankings).³⁴
 - (b) From both a demand and supply-side perspective, ticket prices for both platform types are converging.³⁵ The Parties submitted that Primary

³² [Ticketmaster/Seatwave](#), paragraphs 32 to 34.

³³ [Ticketmaster/Seatwave](#), paragraph 43.

³⁴ FMN, paragraph 90.

³⁵ The Parties submitted analysis which estimated that the average price difference between viagogo and Ticketmaster Platinum was [X] % (FMN, paragraph 89). This was based on the listings of 15 events for one day in December 2019 (Annex 99 to the FMN, viagogo s.109 (l), paragraph 4.1). Ticketmaster Platinum tickets are Ticketmaster's premium tickets, priced at market-driven prices (ie dynamically priced). Tickets sold through Ticketmaster Platinum do not include any additional VIP or hospitality elements ([Ticketmaster, What are Official Platinum Tickets?](#), 8 June 2020).

Ticketing Platforms are adopting various forms of ‘dynamic pricing’, namely (i) premium ticketing (tickets where prices adjust based on market prices); (ii) VIP ticketing (tickets bundled with some other experience or product to match ticket pricing with market demand); and (iii) variable ticketing (where event organisers adjust the number of tickets available in a given price class).³⁶ The Parties also submitted that some Secondary Ticketing Exchange Platforms set resale price caps, causing ticket prices to level out across primary and secondary platforms.³⁷

(c) From both a demand and supply-side perspective, the Parties submitted that primary and secondary tickets for the same event are commonly available at the same time.³⁸ The Parties submitted that one reason for this is the introduction of ‘slow ticketing’ (primary tickets being released in batches to allow for adjustments in the market).³⁹ The Parties have also submitted that Secondary Ticketing Exchange Platforms receive direct ‘allocations’ of tickets, eg Twickets’ arrangements with content rights holders.⁴⁰

46. The Parties further submitted that there is a high level of supply-side substitutability between Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms and that some operators (such as viagogo, StubHub, Ticketmaster, Eventim, See Tickets and AXS) are active in both platform types. The Parties also submitted that Ticketmaster and other Primary Ticketing Platforms display primary and secondary tickets on the same screen.⁴¹

Secondary Ticketing Exchange Platforms are used by ticket buyers in distinct circumstances

47. The CMA believes that there is limited demand-side substitution between Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms.

³⁶ FMN, paragraph 78. The Parties submitted that [X%] of the ‘top selling’ UK concerts had dynamically priced inventory (Parties’ response to the CMA’s Issues Letter, paragraph 25). The CMA has not seen the methodology for this estimate and therefore cannot assess its accuracy.

³⁷ FMN, paragraph 89.

³⁸ The Parties submitted analysis which estimated that for [X%] of events available on both Ticketmaster and viagogo, there were normal, primary tickets available for purchase on Ticketmaster’s website (FMN, paragraph 122 and Chart 4).

³⁹ FMN, paragraph 78. Parties’ response to the CMA’s Issues Letter, paragraph 26. The Parties also submitted that slow ticketing constrains Secondary Ticketing Exchange Platforms even when Primary Ticketing Platforms are sold out, because ticket buyers can wait until more primary tickets are released (Parties’ response to the CMA’s Issues Letter, paragraph 32).

⁴⁰ Parties’ response to the CMA’s Issues Letter, paragraph 36. The CMA understands that these are resale (secondary) tickets, ie these Secondary Ticketing Exchange Platforms are given ‘official reseller’ status.

⁴¹ FMN, paragraph 78(iii). Parties’ response to the CMA’s Issues Letter, paragraphs 21 to 22 and 30.

48. The available evidence indicates that a significant number of ticket buyers have a preference for buying tickets from Primary Ticketing Platforms and use Secondary Ticketing Exchange Platforms only for specific end-uses, indicating that the two platform types are not close alternatives.
- (a) A significant number of third party responses to the CMA's merger investigation indicate that when seeking to buy tickets, buyers look first to Primary Ticketing Platforms or the venue's own website for tickets.
- (b) StubHub's internal documents also indicate that buyers look first to Primary Ticketing Platforms for tickets:
- (i) One StubHub document notes that '[redacted]'.⁴²
 - (ii) Another StubHub document describes Primary Ticketing Platforms as '[redacted]' and Secondary Ticketing Exchange Platforms as '[redacted]'.⁴³
 - (iii) The same document also contains a diagram of the customer journey which shows buyers going to a Primary Ticketing Platform such as '[redacted]' and only afterwards '[redacted]', going to '[redacted]' websites such as those of the Parties.⁴⁴
- (c) The available evidence indicates that buyers will typically use Secondary Ticketing Exchange Platforms only when:
- (i) Equivalent tickets on Primary Ticketing Platforms are sold out. Some third parties indicated to the CMA that Primary Ticketing Platforms cannot compete to sell tickets for events which have already sold out as they do not have the tickets to sell, so ticket buyers have to turn to Secondary Ticketing Exchange Platforms. In this situation, the CMA considers Primary Ticketing Platforms are not an alternative for buyers, and therefore cannot constrain Secondary Ticketing Exchange Platforms; or
 - (ii) Ticket prices on Secondary Ticketing Exchange Platforms are lower than those on Primary Ticketing Platforms. A number of third parties told the CMA that resellers sometimes sell secondary tickets below face value. For example: one consumer group noted that just before an event takes place it is possible to purchase a ticket at or near face value when 'touts are dumping stock on the [Secondary Ticketing Exchange Platform] site', and one reseller indicated that

⁴² Annex 66 to the FMN, '[redacted]', page 21.

⁴³ Annex 60 to the FMN, '[redacted]', slide 15.

⁴⁴ Annex 60 to the FMN, '[redacted]', slide 49.

Secondary Ticketing Exchange Platforms can be cheaper closer to the event when there is considerably less demand.

49. With regard to the Parties' submission that prices are converging between Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms:
- (a) At most, the CMA believes that this is only applicable to a minority of tickets.⁴⁵ As discussed further below in the competitive assessment from paragraph 139, a number of Primary Ticketing Platforms indicated that dynamic pricing is only applicable to a small proportion of their sales.
 - (b) The Parties submitted analysis which estimated that the average price difference between viagogo and Ticketmaster Platinum⁴⁶ was small.⁴⁷ However, the CMA does not consider that this analysis is reliable. This analysis is based on a small sample.⁴⁸ Furthermore, a simple average obscures significant variation in the relative price of tickets for individual events, even within this small sample.⁴⁹ This data also uses the prices at which tickets were listed and the CMA notes that the tickets may not have been sold at those prices.
 - (c) Furthermore, any price convergence between Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms would only be relevant in circumstances where tickets are still available on Primary Ticketing Platforms.
50. The CMA also notes that the Parties' internal documents, as discussed further from paragraph 88, indicate that the Parties see each other (that is, another Secondary Ticketing Exchange Platform) as their main competitor rather than a Primary Ticketing Platform.

Primary Ticketing Platforms are not an option for resellers

51. The CMA considers that Primary Ticketing Platforms perform a different function from Secondary Ticketing Exchange Platforms. While Primary

⁴⁵ The Parties were unable to estimate the percentage of all primary tickets for UK events which were dynamically priced (RFI 4, question 14). The Parties submitted that [%] of Viagogo's 'top selling' UK concerts had dynamically priced tickets available (FMN, paragraph 78(i)). This indicates that for [%] of these events dynamically priced tickets were not available.

⁴⁶ See footnote 35 above for an explanation of Ticketmaster Platinum tickets.

⁴⁷ See footnote 38 above.

⁴⁸ In the events and seat locations in the data provided by the Parties, there were 37 instances where the Parties identified comparable Ticketmaster Platinum and viagogo tickets both being available.

⁴⁹ While the average price difference was [%], there was considerable variation in the relative price of tickets for individual events within the same section of the venue – from [%] cheaper on viagogo than Ticketmaster to [%] more expensive. For only 11 out of the 37 examples was the viagogo price within [%] of the Ticketmaster price and in only 16 examples was it within [%] (Annex 101 to the FMN, '[%]').

Ticketing Platforms allow for the initial sale of tickets by event providers and content rights holders, Secondary Ticketing Exchange Platforms enable the resale of tickets that have already been purchased. Primary Ticketing Platforms are not an option for ticket resellers.⁵⁰ Ticket resellers therefore cannot switch to a Primary Ticketing Platform in response to an increase in fees or deterioration in the terms or services by a Secondary Ticketing Exchange Platform.

52. The Parties submitted that attempts to increase fees for resellers would be passed on to buyers, causing them to switch to other platforms and consequentially reducing the attractiveness of the platform to resellers.⁵¹ However, even if buyers were to switch to Primary Ticketing Platforms (which, for the reasons discussed in paragraph 48 above, will often not be the case), the CMA considers that this would not be sufficient to constrain the fees charged to resellers by Secondary Ticketing Exchange Platforms. In a scenario where ticket buyers could switch away but resellers could not, attempts by resellers to pass on increased fees to buyers would prompt buyers to switch away, thereby reducing the resellers' ticket sales. The resellers would therefore be expected to bear increases in fees themselves and thus would not benefit from any constraint from Primary Ticketing Platforms on the buyer side of the market.

Other submissions by the Parties

53. Regarding the Parties' submissions that Primary Ticketing Platforms can compete for search rankings, the CMA does not believe that this indicates that Primary Ticketing Platforms exert an effective constraint on Secondary Ticketing Exchange Platforms' fees and/or quality of service.⁵²
- (a) As outlined above at paragraph 48, a significant proportion of ticket buyers will have a preference for buying tickets from Primary Ticketing Platforms and will use Secondary Ticketing Exchange Platforms only for specific end-uses. Accordingly, while a given search term may bring up results for both platform types, the CMA believes that it does not

⁵⁰ To the extent that certain providers, such as Ticketmaster, display primary and secondary tickets on the same screen, they are acting as both a Primary Ticketing Platform and a Secondary Ticketing Exchange Platform. Only the latter services are relevant to ticket resellers.

⁵¹ Parties' response to the CMA's Issues Letter, paragraph 39.

⁵² Indeed, the CMA notes that some of the websites that the Parties say compete for search engine marketing/paid search have very different business models and are therefore unlikely to be regarded as substitutes by buyers. For example, Stereoboard is a ticketing price comparison website, Newmarket Holidays is a travel agent and Gigs and Tours is a promoter's website (all mentioned in FMN, paragraph 112).

necessarily follow that one would be seen by a buyer as a good alternative to the other.

- (b) Some consumer groups have indicated that some buyers may not shop around and may instead purchase tickets from a Secondary Ticketing Exchange Platform because it has the most prominent search engine result; indeed, the CMA has received evidence from third parties that the Parties, particularly viagogo, are often high on these rankings, above Primary Ticketing Platforms.⁵³

54. Regarding the availability of tickets on Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms at the same time, the Parties submitted analysis which shows that there are events for which both Ticketmaster and viagogo offered tickets.⁵⁴ The CMA accepts that this is the case but considers it of limited relevance. Importantly, the CMA observes that this data does not assist in understanding how common it is for tickets to be simultaneously available on Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms. This is because the Parties' data does not cover events which are sold out on Primary Ticketing Platforms.⁵⁵ In any event, the CMA's assessment that Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms are not close alternatives (as explained in paragraph 48) is not limited solely to when primary tickets are sold out.
55. With regards to the Parties' further submissions in paragraph 45(c) on ticket availability:
- (a) First, the CMA considers that the Parties did not provide adequate evidence to support their claim that, even when Primary Ticketing Platforms are sold out, buyers would wait for more primary tickets to be released (ie through slow ticketing) rather than purchasing a ticket on a Secondary Ticketing Exchange Platform. In particular, the Parties provided no indication of how frequently this situation occurs or evidence that buyers are willing to defer purchasing a secondary ticket because of

⁵³ Where firms are simply competing (as advertising buyers) to purchase the most prominent advertising slots, the CMA considers that this behaviour is unlikely to constrain platforms' fees; ticket buyers are simply led to whichever firm purchased the most prominent advertising slot (rather than the firm offering the most attractive service).

⁵⁴ See footnote 38 above.

⁵⁵ viagogo told the CMA that on the date it conducted this analysis, there were 7,785 events with relevant inventory on viagogo, but only 2,715 were also available on Ticketmaster and therefore included in the analysis (RFI 4, response to question 2). The CMA considers it very likely that some of the other 5,070 events had previously been available on Ticketmaster but were now sold out.

the possibility that more primary tickets may become available at an unknown future date.

- (b) Second, the CMA considers the Parties' argument that Twickets receives an 'allocation'⁵⁶ of (secondary) tickets from content rights holders to be of very limited relevance. This is because Twickets has a low [0-5]% share of supply (see Table 1: **The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK**).

56. The Parties also pointed to websites such as Ticketmaster where primary and secondary tickets may be displayed alongside each other.⁵⁷ The CMA considers that where primary and secondary tickets are displayed side by side on the same website and are broadly equivalent (ie similar part of the venue, similar price, and with identical assurances of validity) buyers may well be indifferent between them. However, the CMA considers that only a minority of sales on Secondary Ticketing Exchange Platforms ([~~8~~] by GTV) are on sites that display primary and secondary tickets together in this way.⁵⁸ Moreover, the CMA considers that secondary tickets can only be displayed side by side with primary tickets if primary tickets are still available.

57. With regard to supply-side substitutability, the CMA considers that the available evidence does not, in the round, support the Parties' arguments.

- (a) Although there are several operators active in both Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms,⁵⁹ there are also several firms that are active in one channel but not the other.⁶⁰ Moreover, shares of supply are very different for the two channels.⁶¹

- (b) In addition, and as discussed in paragraph 162 below, the CMA considers that barriers to entry and expansion in the Secondary Ticketing Exchange Platform market are substantial. The CMA has not received any evidence that, other than those already present in the supply of Secondary Ticketing Exchange Platforms, further Primary Ticketing Platforms are

⁵⁶ See footnote 40.

⁵⁷ See paragraphs 45(b) to 46 above.

⁵⁸ See Table 1 below.

⁵⁹ Mainly, through providing Capped Secondary Ticketing Exchange Platforms that impose a resale price cap, which are considered as part of the CMA's assessment of the competitive constraints below.

⁶⁰ For example, SeatGeek operates in Primary Ticketing Platforms in the UK but not Secondary Ticketing Exchange Platforms; conversely, TicketSwap and Twickets operate Secondary Ticketing Exchange Platforms in the UK but not Primary Ticketing Platforms.

⁶¹ The Parties submitted that shares of supply for Primary Ticketing Platforms are: Ticketmaster 50%, See Tickets 25%, Eventim 12.5% and AXS 12.5% (the Parties' estimated shares are small, see footnote 22 above) (FMN, paragraph 94). The CMA has not sought to verify these estimates, but considers, based on the Parties' estimates, that the position is very different to Secondary Ticketing Exchange Platforms (the CMA's estimated shares of supply for which are set out in Table 1 below).

planning to enter or expand into Secondary Ticketing Exchange Platforms.⁶²

Conclusion in relation to Primary Ticketing Platforms

58. On the basis of the evidence outlined above, the CMA does not believe the product frame of reference should be widened to include Primary Ticketing Platforms. The CMA has, however, taken the competitive constraint posed by Primary Ticketing Platforms into account in the competitive assessment.

Other online channels

59. The Parties submitted that the online ticketing market includes a range of other online channels such as classified advertising websites (eg Gumtree), social networks (eg Facebook), specialised online platforms for a specific venue or sport (eg Chelsea FC Ticket Exchange) and professional reseller websites (eg Double8tickets).⁶³ The Parties submitted that these channels offer similar functionalities and services to Secondary Ticketing Exchange Platforms and can use the same assets to supply a range of tickets.⁶⁴ In particular, the Parties submitted that social networks are perceived as trustworthy.⁶⁵
60. In this case (and consistent with the CMA's conclusion in *Ticketmaster/Seatwave*),⁶⁶ the available evidence indicates that there are significant differences between Secondary Ticketing Exchange Platforms and the other online channels cited by the Parties, and that the latter do not play a significant role in enabling the buying and selling of secondary tickets online.
- (a) The evidence from third parties indicates that classified advertising websites and social networks do not guarantee 'safe and secured transactions' or the 'authenticity' of tickets,⁶⁷ which the Parties submitted are key features for buyers when using Secondary Ticketing Exchange

⁶² Indeed, Ticketmaster closed its non-Capped Secondary Ticketing Exchange Platforms (GetMeIn! and Seatwave) in 2018.

⁶³ FMN, paragraph 75 (ii)-(vi).

⁶⁴ Parties' response to the CMA's Issues Letter, paragraph 37.

⁶⁵ FMN, paragraph 148.

⁶⁶ The CMA concluded that the constraint the merging parties faced from other online channels through which secondary tickets can be bought and sold appeared limited, on the basis that, *inter alia*, these other channels did not deliver comparable customer service, guarantees and convenience for their customers (*Ticketmaster/Seatwave*, paragraphs 38 to 41).

⁶⁷ See paragraphs 148 to 149 below. Whatever prospective ticket buyers' view may be of a social network itself, the CMA did not receive evidence that buyers will trust resellers that they do not know personally, absent any form of guarantee such as those provided by the Parties. A viagogo internal document also states that '[X]' (Annex 18 to the FMN, '[X]', slide 72). A consumer group also stated that social media platforms have minimal consumer protections, higher likelihood of fraud, and that tickets may be sold in breach of terms and conditions.

Platforms.⁶⁸ The CMA also considers that tickets on classified advertising websites and social networks are unlikely to appear prominently in online searches by buyers looking for tickets⁶⁹ (a significant differentiating factor given ticket buyers tend to use online search to find tickets).⁷⁰ In addition, consumer groups who responded to the CMA's merger investigation did not list specialised online platforms or professional reseller websites as being among the main types of suppliers which consumers use to buy secondary tickets.

- (b) Suppliers of classified advertising websites and social networks stated that they did not consider themselves to compete with the Parties; similarly, no resellers that sell tickets via their own professional reseller websites indicated that their websites were alternatives to the Parties for selling tickets.
- (c) The vast majority of resellers that responded to the CMA's merger investigation did not use social networks or classified advertising to sell tickets.⁷¹
- (d) None of the resellers that responded to the CMA's merger investigation indicated that they sold tickets on third party specialised online platforms. Although a small number of resellers indicated that they sold tickets on their own online professional reseller websites, for most ticket resellers, professional reseller websites are not an option for listing their secondary tickets, as each website is operated by a single reseller. This finding is also supported by the evidence the CMA received about the importance of network (scale) effects and the high barriers to entry and expansion that exist in this market – see paragraph 163.

61. For the reasons outlined above, the CMA does not believe that the product frame of reference should be widened to include the other types of online channels cited by the Parties (namely advertising websites, social networks, specialised online platforms and professional reseller websites). The CMA

⁶⁸ FMN, paragraph 148.

⁶⁹ The Parties have not provided evidence that classified advertising websites or social networks are highly ranked in online searches likely to be performed by buyers looking for tickets.

⁷⁰ A number of consumer groups said that ticket buyers are led to Secondary Ticketing Exchange Platforms through Google.

⁷¹ In the context of the CMA's market test conducted in the course of its merger investigation, feedback from resellers refers to feedback from those resellers listed as being in the Parties' 'top fifty sellers of secondary tickets for events in the UK by revenue on each of the Parties' platforms' (Annex 74 to FMN, 'Response to RFI 1', question 28). The CMA considers that these make up a small proportion of total resellers using Secondary Ticketing Exchange Platforms and are likely to be professional resellers rather than consumers who were unable to attend a given event.

has taken the competitive constraint posed by these online channels into account, where relevant, in the competitive assessment.

Geographic scope

62. The Parties submitted that there is a national geographic frame of reference.⁷² They submitted that the *Ticketmaster/Seatwave* decision defined the market as national in scope since platforms are active in this market on a national basis, setting their main competitive variables and relationships nationally, even though they are all active in multiple countries.⁷³
63. The CMA has not received any evidence to suggest that the geographic frame of reference should be any narrower (or wider) than national. Accordingly, the CMA has considered the impact of the Merger within a national geographic frame of reference.

Conclusion on frame of reference

64. For the reasons set out above, the CMA has considered the impact of the Merger in the supply of online exchange platforms for selling and buying secondary tickets (ie Secondary Ticketing Exchange Platforms) in the UK.

Competitive assessment

Horizontal unilateral effects

65. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.⁷⁴ Horizontal unilateral effects are more likely when the merging parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in the supply of Secondary Ticketing Exchange Platforms in the UK. In particular, the CMA has had regard to the likely impact of the Merger with regard to price, quality of service and innovation.
66. For the purposes of this assessment, the CMA has considered:

⁷² The Parties operate their businesses from the US, and export their services internationally via online platforms. Despite operating their businesses from the US, the Parties are selling tickets to UK events from UK focused websites.

⁷³ FMN, paragraph 163.

⁷⁴ [Merger Assessment Guidelines](#), from paragraph 5.4.1.

- (a) The Parties' shares of supply;
- (b) The closeness of competition between the Parties; and
- (c) Competitive constraints from alternative suppliers.

Shares of supply

67. The Parties estimated that they had a combined share of supply of [80-90]% by GTV in 2019 in the provision of online platforms for the sale and purchase of secondary tickets, based on a mixture of industry reports and the Parties' own assumptions.⁷⁵ They estimated that their combined share of supply in 2018 in the same frame of reference was [60-70]%.⁷⁶ According to the Parties the difference in share of supply between 2018 and 2019 appears to be mainly driven by the closure of Ticketmaster's former Secondary Ticketing Exchange Platforms (GetMeIn! and Seatwave), which were replaced with a new platform, Ticketmaster Ticket Exchange, that is currently in the process of establishing its position in the market.⁷⁷ Ticketmaster Ticket Exchange is a Secondary Ticketing Exchange Platform which imposes caps on the price at which tickets can be resold (that is, a **Capped Secondary Ticketing Exchange Platform**) (often described as a 'fan-to-fan' website).
68. The Parties submitted that Ticketmaster Ticket Exchange could re-establish Ticketmaster's market share, rising from the Parties' 2019 estimate of 4.4% to the Parties' previously-estimated 2018 level of 34.6% (although the Parties submitted that [X]).⁷⁸
69. In light of a number of limitations to the Parties' market share methodology,⁷⁹ the CMA has carried out a reconstruction of the online secondary ticketing sector based on data on GTV of ticket sales received from the Parties and the Parties' competitors.

⁷⁵ FMN, Table 6. The provision of online platforms for the sale and purchase of secondary tickets is a wider frame of reference than that adopted by the CMA. However, due to data limitations the only competitors included in the Parties' estimates were Secondary Ticketing Exchange Platforms. The Parties' figures also omit some of the platforms included in the CMA's calculations (such as TicketSwap).

⁷⁶ FMN, Table 5.

⁷⁷ FMN, paragraphs 99 to 100.

⁷⁸ Parties' response to the CMA's Issues Letter, paragraph 35. The CMA notes that, based on its market reconstruction exercise, Ticketmaster accounted for less than 8% of the market in 2018.

⁷⁹ As explained at paragraphs 94 to 98 of the FMN, due to the lack of any third party market report including information about market shares in the ticketing industry, the Parties relied on information from different sources on traffic and ticket sales in order to estimate the size of the online secondary ticketing sector. The Parties' estimates of shares of supply are therefore necessarily based on a series of assumptions (eg regarding the relative importance of different competitors, the average price of tickets on competitors' websites and conversion rates on competitors' websites) which are overall unlikely to deliver an accurate picture of the market.

70. As set out in Table 1: **The CMA’s share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** below, the CMA’s share of supply estimates indicate that the Parties substantially understated their shares in 2018.⁸⁰ As the CMA’s analysis is based on actual GTV data, the CMA considers that its own estimates are more accurate than those provided by the Parties (and has therefore given them more weight in its assessment).

Table 1: The CMA’s share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK

| Platforms | Share of Supply by GTV 2018 | | Share of Supply by GTV 2019 | |
|---|-----------------------------|----------------|-----------------------------|----------------|
| | % | | % | |
| Viagogo | [✂] | [60-70] | [✂] | [50-60] |
| StubHub | [✂] | [10-20] | [✂] | [30-40] |
| Combined | [✂] | [80-90] | [✂] | [80-90] |
| Ticketmaster (GetMeIn!, Seatwave, Ticketmaster Ticket Exchange) | [✂] | [5-10] | [✂] | [5-10] |
| AXS Official Resale ⁸¹ | [✂] | - | [✂] | [0-5] |
| Eventim fanSALE | [✂] | [0-5] | [✂] | [0-5] |
| Gigantic Fan-to-Fan | [✂] | [0-5] | [✂] | [0-5] |
| Gigsberg ⁸² | [✂] | - | [✂] | [0-5] |
| See Tickets Fan-to-Fan | [✂] | [0-5] | [✂] | [0-5] |
| TicketSwap | [✂] | [0-5] | [✂] | [0-5] |
| Twickets | [✂] | [0-5] | [✂] | [0-5] |

Source: CMA analysis based on data from the Parties (FMN, tables 5-6), and their competitors

71. As noted above in the context of the discussion of the appropriate counterfactual, there remains considerable uncertainty about the duration and long-term impact of the Coronavirus (COVID-19) outbreak. The shares of supply in Table 1: **The CMA’s share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** pre-date the Coronavirus (COVID-19) outbreak and thus do not take account of the impact of the outbreak on the Parties’ and their competitors’ businesses. In this regard, the Parties submitted that the shares of supply pre-dating the

⁸⁰ Based on the Parties’ share of supply estimates the Parties jointly covered [60-70]% of the GTV for the supply of online platforms for the sale and purchase of secondary tickets in 2018 (see FMN, Table 5) whereas for the same year the CMA’s market reconstruction exercise reveals that the Parties’ share of supply was significantly higher (ie [80-90]%).

⁸¹ Both AXS and Gigsberg launched their Secondary Ticketing Exchange Platforms in the UK around April 2019, so their shares of supply may understate their market position over a full year. See also footnote 90 below.

⁸² Ibid.

Coronavirus (COVID-19) outbreak do not provide a reliable proxy of the competitive landscape that will arise after the pandemic.⁸³

72. The CMA notes that all the suppliers listed in Table 1 are subject to the same change in market conditions and, although it is difficult to predict the effect on different suppliers and how each will respond to the circumstances, the CMA has received no evidence showing that the Coronavirus (COVID-19) outbreak will affect the Parties more than other competitors.⁸⁴ In this context, therefore, the CMA considers that these shares of supply represent an appropriate proxy for the relative market position of the Parties in the longer term.
73. The CMA's estimates in Table 1: **The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** indicate that the Parties have extremely high combined shares of supply: approximately [80-90%], at the upper end of [80-90]% in both 2018 and 2019, with a large increment of [10-20]% in 2018, and [30-40]% in 2019. Currently StubHub is viagogo's only competitor with a share above 10% and, accordingly, the only other significant player in this market.
74. The Parties submitted that the CMA's shares of supply fail to capture sales from other Secondary Ticketing Exchange Platforms, including specialised platforms such as 1st4footballtickets and Chelsea FC Ticket Exchange, and other platforms such as Scarlet Mist and Vibe Tickets, with which the Parties directly compete.⁸⁵ The CMA notes that specialised platforms have been considered as out-of-market constraints in the competitive assessment, below, and the inclusion of the additional Secondary Ticketing Exchange Platforms identified by the Parties in the CMA's market reconstruction exercise would not materially change the Parties' very high combined share of supply, given the limited size of these players.
75. The Parties also submitted that shares of supply are a poor indicator of market power in a dynamic and rapidly evolving market like the online ticketing industry.⁸⁶ They also submitted that the observed change in the Parties' shares of supply between 2018 and 2019 is attributable to exogenous events (like viagogo's suspension from Google AdWords from July to

⁸³ Parties' response to the CMA's Issues Letter, paragraph 46.

⁸⁴ See paragraph 29 above.

⁸⁵ Parties' response to the CMA's Issues Letter, paragraphs 41 to 42.

⁸⁶ In support, the Parties listed a number of prior CMA decisions (Parties' response to the CMA's Issues Letter, paragraph 46). The CMA notes that it considers each case independently and does not consider that its decisions in any of these prior cases (a number of which concern markets with markedly different competitive dynamics) are relevant to the assessment of the appropriate weight to place on shares of supply in this case.

November 2019 (the **Google AdWords Suspension**) and an increase in the number of events) rather than the result of competitive dynamics.⁸⁷

76. In its assessment the CMA has looked at the shares of supply over a two-year period. Despite the events which may have affected viagogo's performance in 2019, the CMA has found that the Parties' combined shares over this time remain stable and very high. This is consistent with the market position reflected in the Parties' internal documents, which, as discussed at paragraphs 90 to 91 below, indicate that viagogo and StubHub are the most significant players in the market. The CMA has also considered the likelihood of further entry and expansion (see the discussion of barriers to entry and expansion in paragraphs 160 to 171 below).
77. **Table 1: The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** further shows that the next largest supplier, Ticketmaster, has a much smaller share of supply than the Merged Entity, of only [5-10]%. As discussed in paragraph 125 below, while it is possible that Ticketmaster Ticket Exchange may expand its relative position in the Secondary Ticketing Exchange Platform market, the CMA considers that any growth is likely to be modest given the high barriers to expansion in this market.
78. The Parties have also submitted that the CMA's estimates of shares of supply underestimate the competitive constraint that Ticketmaster and other Primary Ticketing Platforms exercise on Secondary Ticketing Exchange Platforms.⁸⁸ **Table 1: The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** sets out the shares of supply within the relevant frame of reference, which (for the reasons discussed above) does not include Primary Ticketing Platforms. The CMA considers 'out of market' constraints, including from Primary Ticketing Platforms, in paragraphs 132 to 156 below.⁸⁹
79. **Table 1: The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** shows there is also a tail of other competitors with minimal market presence, none of which have

⁸⁷ In particular the Parties submitted that the fall in viagogo's GTV between 2018 and 2019 is due to [X], which are estimated to have respectively led to a [X]% and [X]% reduction in viagogo's GTV in the UK market. The Parties submitted that StubHub's reported increase in sales between 2018 and 2019 is due to an increase in sports and music events which unexpectedly took place in the UK and an increase in the quantity of stadium shows and quality of the artists (Parties' response to the CMA's Issues Letter, paragraph 45).

⁸⁸ Parties' response to the CMA's Issues Letter, paragraph 48.

⁸⁹ Insofar as some Secondary Ticketing Exchange Platforms enjoy a commercial advantage as a result of being operated by a provider whose main business is operating a Primary Ticketing Platform, this should be reflected in their shares of supply.

shares of supply above [0-5]%.⁹⁰ The minimal presence of other competitors is also consistent with the Parties' internal documents (which make very limited reference to competitors other than the other Party and (for [X]) Ticketmaster),⁹¹ and responses from resellers to the CMA's merger investigation. Overall, the evidence on shares of supply indicates that none of the Parties' competitors have a significant share of supply (either individually or in aggregate). Moreover, as discussed in paragraph 163, the CMA considers that network effects are a feature of this market and that, as a result, the constraint that small competitors exert on the Merged Entity is likely to be very weak.

80. Accordingly, the CMA considers that the addition of StubHub significantly strengthens viagogo's already high share of supply and eliminates its only significant competitor, giving the Merged Entity a very high share of supply (around [80-90]%). As a result, the CMA believes that the Merger raises *prima facie* competition concerns.

Closeness of competition between the Parties

81. The CMA has examined the closeness of competition between the Parties by reference to:
- (a) The Parties' service propositions;
 - (b) Evidence from internal documents;
 - (c) Third party views on closeness of competition; and
 - (d) Evidence from the Google AdWords Suspension.

The Parties' service propositions

82. The Parties submitted that they do not compete closely in the supply of Secondary Ticketing Exchange Platforms in the UK as they:
- (a) Have a different customer mix, with viagogo having a greater proportion of [X] amongst its reseller customer set, and [X];

⁹⁰ The CMA notes that two players, Gigsberg and AXS Official Resale, entered the online secondary ticketing business around April 2019, which suggests their importance is likely to be slightly understated in the CMA's analysis. This bias is however unlikely to be material – see paragraph 163.

⁹¹ See paragraph 127 below.

- (b) Focus on different sales channels, with viagogo selling more tickets for UK events through [REDACTED], and StubHub selling more [REDACTED];
 - (c) Focus on different types of events, with viagogo more focused on [REDACTED], and StubHub on [REDACTED]; and
 - (d) Have different marketing strategies, with viagogo marketing more through [REDACTED], and StubHub focusing more [REDACTED].⁹²
83. The CMA recognises that there is a degree of differentiation between the Parties' propositions, but considers this to be of limited significance given the high degree of similarity between the Parties' service offerings.
84. In particular, both Parties' platforms are Uncapped Secondary Ticketing Exchange Platforms – ie they are exchanges that match buyers and resellers of tickets and on which resellers are free to set their own prices with no maximum price cap. Almost all resellers that responded to the CMA's merger investigation indicated StubHub was an alternative to viagogo for selling secondary tickets, and the vast majority of resellers indicated viagogo was an alternative to StubHub.⁹³ The only other Uncapped Secondary Ticketing Exchange Platform listed by the Parties as being active in the UK is Gigsberg which, as outlined in Table 1: **The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** above, has only a minimal market presence of [0-5]%. The close similarity between the Parties' offerings is in contrast to the features of other Secondary Ticketing Exchange Platforms (namely Capped Secondary Ticketing Exchange Platforms, as discussed further below at paragraphs 120 to 125).
85. Other similarities in the Parties' service offerings include the following:
- (a) Both Parties' platforms offer guaranteed refunds to buyers if the latter do not receive a valid ticket. StubHub internal documents indicate that StubHub's guarantee is [REDACTED],⁹⁴ and is part of [REDACTED].⁹⁵ As considered further in paragraphs 145 to 151, the Parties' guarantees in this respect are seen by resellers and buyers as a key differentiating factor between the Parties and other online channels, and an important similarity between the Parties' offerings.⁹⁶

⁹² FMN, paragraph 140; Parties' response to the CMA's Issues Letter, paragraphs 13(a) and 62 to 64.

⁹³ See paragraph 97 below.

⁹⁴ Annex 106 to the FMN, '[REDACTED]', slide 7.

⁹⁵ Annex 50 to the FMN, '[REDACTED]', slide 6.

⁹⁶ The Parties submitted that other Ticketing Platforms (including Capped Secondary Ticketing Exchange Platforms) provide the same guarantees (Parties' response to the CMA's Issues Letter, paragraph 58c). The CMA has assessed the extent of the constraint posed by other Capped and Uncapped Secondary Ticketing

(b) On both Parties' platforms, resellers can list any ticket (ie they are not restricted to tickets for certain types of event or those which have been bought on a related platform). Accordingly, buyers are able to purchase tickets for all types of live event, to the extent that these are made available on the platform by resellers. The Parties submitted that the fact that resellers can list, and buyers can buy, any type of ticket should not be considered a relevant consideration for buyers and sellers, but did not indicate why this was the case.⁹⁷

86. By contrast, the differentiating features cited by the Parties, as outlined above at paragraph 82, were generally not mentioned by customers as important differences in the Parties' service offerings. In particular:

(a) Resellers that responded to the CMA's merger investigation did not cite any of customer mix, sales channel, or event-type as a material difference between the Parties' service offerings.

(b) Both Parties allow transactions to occur using either a desktop or a mobile device.⁹⁸ No resellers indicated that different sales channels (eg mobile app or desktop) were the reason why they listed tickets for resale on either of the Parties' platforms, or the reason why they considered that buyers purchased their tickets from a particular platform.

(c) Although a small number of resellers indicated that tickets for different types of events sold better on one or other of the Parties' platforms, (eg one reseller stated that tickets for UK football events sold better on StubHub), given that any type of ticket for live events in the UK can be listed on either of the Parties' platforms, the CMA does not consider this to be indicative of a lack of closeness in competition between the Parties.⁹⁹

87. The CMA therefore believes that, in the round, the available evidence indicates the Parties offer a very similar service offering and compete closely for resellers and buyers on this basis. While there are some differences in the

Exchange Platforms (including as regards refund guarantees offered) in the competitive assessment below at paragraphs 116 to 131.

⁹⁷ Parties' response to the CMA's Issues Letter, paragraph 58b.

⁹⁸ Further, the CMA considers that the differences in sales by channel type in the UK appear modest (eg [x%] of viagogo's UK sales are via mobile, compared to [x%] of StubHub's sales, and [x%] of viagogo's UK sales are via desktop/tablet, compared to [x%] of StubHub's sales) (FMN, paragraph 140).

⁹⁹ The Parties submitted that it was surprising that the Parties' event mix was not mentioned by customers as a differentiating feature, as both ticket buyers and resellers select/list tickets on the basis of ticket availability for a particular event, and because there are specialised platforms that focus on specific event types, indicating that customers have preferences for different platforms, depending on the event (Parties' response to the CMA's Issues Letter, paragraph 63). See paragraph 146 below regarding limited reseller use of, and preference for, specialised platforms.

Parties' offerings, the CMA believes that they are close competitors from a service proposition perspective.

Internal documents

88. The CMA has also considered the extent to which the Parties view each other as close competitors based on their internal documents.
89. viagogo submitted a limited volume of internal documents to the CMA on the basis that [REDACTED]. viagogo also noted that it does not, in the ordinary course of business, prepare materials reporting on either its competitors or the competitive conditions in the ticketing industry.¹⁰⁰
90. The internal documents viagogo did submit to the CMA indicate that viagogo closely monitors StubHub and views it as a close competitor. While viagogo appears to view itself as the market leader, several documents indicate that it views StubHub as its only remaining competitor of any significance in the supply of Secondary Ticketing Exchange Platforms (both on a UK and worldwide basis). For example:
- (a) An internal viagogo email chain from 15 August 2018 discussing [REDACTED],¹⁰¹ implying that StubHub is the only remaining competitor.
 - (b) A viagogo document evaluating the Merger states that:
 - (i) '[REDACTED] business in the same industry as [REDACTED] – operation of an online ticket marketplace that matches buyers and sellers
 - (ii) [REDACTED] the two companies has significant overlap
 - (iii) [REDACTED].¹⁰²
 - (c) A viagogo document entitled '[REDACTED]' dated December 2017 is headed '[REDACTED]' and compares viagogo's performance solely with StubHub.¹⁰³

¹⁰⁰ Annex 99 to the FMN, 'Response to Part A Section 109(l)', explanatory note.

¹⁰¹ Annex 133 to the FMN, '[REDACTED]'.

¹⁰² Annex 18 to the FMN, '[REDACTED]', page 40. The CMA notes that this document refers to the Merger at a worldwide level and is not specifically focused on the UK. However, the CMA does not consider that this limits its relevance because the Parties' Secondary Ticketing Exchange Platform business models do not materially differ between the UK and worldwide.

¹⁰³ Annex 129 to the FMN, '[REDACTED]', pages 11 to 12.

- (d) A viagogo excel spreadsheet with the title '[REDACTED]' and attached to an email dated 24 July 2018 assesses [REDACTED].¹⁰⁴ Whilst this document covers more than just the UK, it lists its [REDACTED].
91. StubHub's internal documents also indicate that it views viagogo as a strong and close competitor. StubHub appears to consider viagogo as the market leader and monitors viagogo more closely than it does any other competitor. For example:
- (a) An internal StubHub presentation dated November 2018 described the UK market structure/dynamics as follows: '[REDACTED]'.¹⁰⁵
- (b) A research report [REDACTED] dated March 2018 includes various slides which compare StubHub to, primarily, viagogo. For example, one slide is titled '[REDACTED]'; other sections of the slides are [REDACTED].¹⁰⁶ In an overview of brands in the 'Secondary' ticketing segment, [REDACTED].
- (c) An internal document dated May 2017 shows that StubHub considered viagogo to be its '[REDACTED]'.¹⁰⁷ It also noted that viagogo had a '[REDACTED]'.¹⁰⁸
- (d) In the context of evaluating an advertising campaign, a StubHub internal document described the UK market context as one where [REDACTED] and viagogo as being [REDACTED].¹⁰⁹
92. The Parties submitted that the evidence from internal documents set out at paragraph 91 above, is likely to be subjective.¹¹⁰ The Parties submit that the question of whether viagogo is currently constrained in a meaningful way by StubHub can better be assessed by reference to the objective operation of the Secondary Ticketing Exchange Platform sector.¹¹¹
93. The CMA believes that contrary to the Parties' submission, StubHub's internal documents clearly demonstrate that StubHub views viagogo as its main competitor and as a clear leader in Secondary Ticketing Exchange Platforms. As stated in the CMA's guidance, internal documents can be an important source of evidence in a merger investigation.¹¹² All of the Parties' documents

¹⁰⁴ Annex 130 to the FMN, '[REDACTED]'; Annex 132 to the FMN, '[REDACTED]'.

¹⁰⁵ Annex 59 to the FMN, '[REDACTED]', slide 8.

¹⁰⁶ Annex 60 to the FMN, '[REDACTED]', slide 21; see also slides 19 to 20.

¹⁰⁷ This document acknowledged that StubHub had [REDACTED]. The CMA notes that Ticketmaster has closed these Secondary Ticketing Exchange Platforms.

¹⁰⁸ Annex 61 to the FMN, '[REDACTED]', slide 5.

¹⁰⁹ Annex 64 to the FMN, '[REDACTED]', slide 3.

¹¹⁰ Parties' response to the CMA's Issues Letter, paragraphs 59 to 60.

¹¹¹ Parties' response to the CMA's Issues Letter, paragraph 60.

¹¹² See [Guidance on requests for internal documents in merger investigations](#), January 2019, (CMA100) paragraph 3.

cited at paragraphs 90 to 91 above were prepared for the board or senior management of the Parties and were produced since May 2017.¹¹³ The CMA notes in this regard that positions expressed in a contemporaneous report to the board or senior management of a business involved in merger proceedings will typically be given more weight over unevidenced assertions made in the course of CMA proceedings. Neither Party has provided the CMA with any documents of similar probative value (eg board documents) that undermine the CMA's conclusions above. The CMA further notes that it has also considered other sources of evidence (in addition to internal documents) to assess the closeness of competition between the Parties.

94. Accordingly, the CMA believes that, overall, the Parties' internal documents indicate that each Party closely monitors the other and that they view each other as close competitors in the supply of Secondary Ticketing Exchange Platforms in the UK.

Third party views

- *Consumer groups and consumers*

95. All consumer groups that responded to the CMA's merger investigation raised concerns that the Merger would remove competition in the ticketing market, with several indicating it would create a monopoly or near-monopoly, and that this would likely lead to increased prices for consumers. One consumer group said that secondary ticketing in the UK is dominated by viagogo and StubHub and the Merger would remove competition. Individual consumers responding to the CMA's 'Invitation to Comment' also raised concerns that the Merger would result in the elimination of a competitor to viagogo in StubHub, in the Merged Entity gaining a monopoly, and in price increases for consumers.

- *Resellers*

96. All of the resellers who responded to the CMA's merger investigation and used more than one Secondary Ticketing Exchange Platform in 2019 (not necessarily at the same time or for the same tickets) used both viagogo and StubHub. A significant proportion of these resellers used no other Secondary Ticketing Exchange Platforms to sell secondary tickets in 2019.

¹¹³ These documents were submitted in response to: (i) Questions 9 and/or 10 of the CMA's merger notice template, which requests copies of certain categories of documents prepared by or received by any member of the board of directors (or equivalent body) or senior management or the shareholders' meeting of either merger party (whether prepared internally or by external consultants); and/or (ii) Question 3 of the CMA's s.109 (III) request to viagogo.

97. Nearly all respondents listed StubHub as an alternative to viagogo for selling secondary tickets.¹¹⁴ Similarly, the vast majority of respondents listed viagogo as an alternative to StubHub for selling secondary tickets. When asked to score platforms on a scale of one to five (where one is a very weak alternative and five is a very strong alternative), resellers scored viagogo very highly as an alternative to StubHub (4.6 on average). Resellers scored StubHub slightly lower as an alternative to viagogo (3.3 on average – although much higher than the next most frequently mentioned alternative, which scored 1.3 on average).
98. Overall, resellers indicated that viagogo and StubHub are the strongest alternatives to each other and that there would be no credible alternatives following the Merger.
- (a) A significant number indicated that the Merged Entity would have a monopoly over the secondary ticketing market in the UK;
 - (b) One reseller expressed concern that the Merged Entity would be able to dictate terms, resulting in worse payment terms and higher fees for resellers and price increases for customers; and
 - (c) Another reseller stated that alternative Secondary Ticketing Exchange Platforms would not be big enough to compete and, therefore, there would be a lack of choice for the resale of tickets.
99. The Parties submitted that the professional reseller evidence set out in paragraph 98 above is likely to be subjective.¹¹⁵ The CMA notes that in this case (as in all merger investigations), it has considered the appropriate weight to attribute to third party comments (noting, in this case, the high degree of consistency across the views expressed by third parties in terms of the effect of the Merger) and has assessed this evidence in conjunction with other evidence (including shares of supply and internal documents) to reach a conclusion based on the body of evidence in the round. In this case, the CMA notes that the reseller views cited above are consistent with those of other third party groups (including consumer groups and competitors) and also with the evidence in relation to the Parties' high shares of supply and the limited constraint posed by other market players.

¹¹⁴ One reseller stated that it began using StubHub during 2019 following viagogo's Google AdWords Suspension, the impact of which is considered by the CMA from paragraph 102 below.

¹¹⁵ Parties' response to the CMA's Issues Letter, paragraphs 59 to 60.

- *Competitors and other industry participants*

100. Competitors and other industry participants expressed concerns that the Merger would combine the two biggest Secondary Ticketing Exchange Platforms, significantly reducing competition. In particular, they submitted that:

(a) The merger of ‘the two biggest platforms in the industry’ would not benefit customers and would significantly reduce competition, resulting in substantially higher prices and fees, less choice, and less innovation; and customers would have little choice on where to purchase tickets for in-demand or sold-out events and this would increase prices.

(b) Allowing viagogo to acquire StubHub would give viagogo roughly twice as much data to target customers, increase its strength in paid search results, and strengthen its ability to market in the UK.

(c) Resellers would be dependent on the Merged Entity’s platform to reach their target audiences, resulting in anti-competitive terms, such as exclusive distribution or most favoured pricing.

101. The CMA therefore believes that, overall, the third party responses to the CMA’s merger investigation indicate that the Parties are seen as close competitors, with a material proportion of third party responses expressing reasoned and competition-specific concerns in relation to the Merger.

Analysis of the impact of viagogo’s Google AdWords Suspension in 2019

102. As noted above, viagogo was suspended from Google AdWords from 17 July 2019 to 24 November 2019.¹¹⁶ viagogo submitted that given the [REDACTED], the Google AdWords Suspension [REDACTED] impacted traffic to its website and subsequently sales.¹¹⁷ viagogo submitted that some of this traffic (and sales) is likely to have diverted to elsewhere, and that this may be informative about diversion to competitors.¹¹⁸

- *Parties’ assessment of the Google AdWords Suspension*

103. To provide evidence on the closeness of competition between the Parties, viagogo submitted an economic analysis by Charles River Associates (**CRA**) using the Google AdWords Suspension as a ‘natural experiment’ (the **CRA**

¹¹⁶ Annex 74 to the FMN, ‘RF11 response’, paragraph 23.

¹¹⁷ viagogo submitted that there was a [REDACTED]% reduction in viagogo’s daily GTV in the UK market due to [REDACTED] (FMN, paragraph 101; Parties’ response to the CMA’s Issues Letter, paragraph 45).

¹¹⁸ Annex 73 to the FMN, ‘CRA Report’.

Analysis).¹¹⁹ In particular, the CRA Analysis comprises two pieces of analysis:

(a) In the first piece, CRA uses SimilarWeb data on the UK traffic to Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms to assess the impact on rival ticketing platforms' traffic, including StubHub. CRA submitted that its results implied a small diversion of traffic from viagogo to StubHub and a substantially larger diversion to other platforms like Eventbrite, See Tickets and Ticketmaster.

(b) In the second piece, CRA looks at the trends in GTV, conversion rates and number of active sellers for the Parties only. This graphical analysis covers the period before and during the Google AdWords Suspension.

104. From both analyses CRA concludes that StubHub 'recaptured' a smaller proportion of sales than would be expected based on the CMA's estimates of shares of supply. CRA therefore finds that the shares of supply tend to overstate the degree of competition between the Parties.¹²⁰

- *CMA assessment of CRA Analysis*

105. The CMA has assessed the CRA Analysis and concluded that significant flaws and limitations undermine its evidentiary weight in determining the closeness of competition between the Parties. In particular, the CMA considers that:¹²¹

(a) The results are unreliable as the CRA Analysis is not able to adequately isolate the effect of the Google AdWords Suspension on the traffic of other platforms as it does not control for other factors such as industry-wide trends and platform-specific factors (eg changes in ticket availability and marketing activity).

(b) Since the CRA Analysis focuses on traffic data rather than ticket sales,¹²² even if it were reliable (which it is not), the results would be of limited value for understanding whether buyers would substitute viagogo for an alternative platform at the point of purchase.

¹¹⁹ Annex 73 to the FMN, 'CRA Report'; Annex 1 to Parties' response to the CMA's Issues Letter, 'CRA Response'.

¹²⁰ Annex 73 to the FMN, 'CRA Report', section 1.2; Parties' response to the CMA's Issues Letter, paragraph 65.

¹²¹ Further discussion of the methodology and interpretation limitations of the CRA Analysis is available in the Annex: The CMA's detailed assessment of the CRA Analysis.

¹²² Conversely, StubHub internal documents refer to the effect of the Google AdWords Suspension [X] (see paragraph 107).

(c) CRA's graphical analysis does not provide reliable evidence on the closeness of competition between the Parties. As with the traffic analysis discussed above, this is due to the presence of factors that are likely to affect the plotted metrics but that are not controlled for in the analysis (eg changes in ticket availability and marketing activity).

106. In addition to these important limitations, the CMA notes that the CRA Analysis' findings are inconsistent with the other sources of evidence available to the CMA, including the Parties' internal documents and third party submissions.¹²³ Hence, the CMA believes that, when considered in the round, the totality of the evidence points toward the Parties being close competitors.

- *The CMA's assessment of the Parties' internal documents on the impact of the Google AdWords Suspension*

107. The CMA reviewed StubHub's internal documents containing information on its evaluation of the Google AdWords Suspension. In particular, StubHub,¹²⁴ [REDACTED].¹²⁵

108. While the results from StubHub's internal analysis suffer from the same shortcomings as the CRA Analysis, they were used by StubHub in internal documents assessing its performance.¹²⁶ The CMA considers that this is consistent with StubHub perceiving viagogo as a close competitor.

109. Furthermore, the CMA notes that the change in the Parties' individual shares of supply between 2018 and 2019, and in particular the fact that in 2019 StubHub gained [10-20]% of the market largely at the expense of viagogo's position (see Table 1: **The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK**), is not only consistent with the Google Adwords Suspension having a positive impact on StubHub's performance (and hence with StubHub's internal analysis), but also with the Parties being close competitors.

¹²³ See paragraph 94 and paragraph 101 as well as the evidence from StubHub's internal documents on the impact of viagogo's Google AdWords Suspension, [REDACTED], discussed below at paragraphs 107 to 109.

¹²⁴ Annex 107 to the FMN, '[REDACTED]', slides 8, 12, and 16. It is unclear to the CMA whether this [REDACTED] relates solely to the UK or to the StubHub international business, including the UK. The CMA considers that this figure is likely to be an underestimation as the figure relates to StubHub's performance during the 3rd quarter of 2019 while the Google AdWords Suspension spanned eight additional weeks into the 4th quarter (ie the suspension remained in place until 24 November 2019).

¹²⁵ Annex 107 to the FMN, '[REDACTED]', slide 16; Annex 103 to the FMN, '[REDACTED]', slide 26.

¹²⁶ Annex 107 to the FMN, '[REDACTED]', slide 12.

Conclusion on closeness of competition between the Parties

110. On the basis of the available evidence, as discussed above, the CMA believes that the Parties compete closely. This is supported by the Parties' very similar service propositions, the Parties' internal documents and the views of third parties.

Competitive constraints

111. Horizontal unilateral effects are more likely where customers have little choice of alternative supplier. The CMA has considered whether there are alternative suppliers which would provide a competitive constraint on the Merged Entity.
112. The Parties submitted that they face competitive constraints from the following categories of competitor:
- (a) Secondary Ticketing Exchange Platforms such as Gigantic, Ticketmaster Ticket Exchange, Gigsberg, See Tickets Fan-to-Fan, and Twickets.¹²⁷
 - (b) Primary Ticketing Platforms such as Ticketmaster, See Tickets, Eventim, and AXS.¹²⁸
 - (c) Other online channels that also offer ticketing services, including venue or sport specific platforms, classified advertising websites, professional reseller websites, social networks and content rights holders' resale websites.¹²⁹
113. The Parties also submitted that there are plentiful alternatives for fans both as buyers and resellers of tickets, and that professional resellers already engage in multi-listing.¹³⁰
114. As a preliminary point, the CMA has received limited evidence of resellers multi-listing across platforms other than those of the Parties, whether on multiple other Secondary Ticketing Exchange Platforms or on other online channels. Of the resellers that responded to the CMA's merger investigation, about half did not list tickets on websites other than one or both of the Parties' websites in 2019; even fewer said that they listed the same tickets on different platforms (for example, to avoid the risk of inadvertently selling the same ticket twice). Regarding other online channels, only a minority of resellers that responded to the CMA's merger investigation said they used social media or

¹²⁷ FMN, paragraph 98 and Table 6; Parties' response to the CMA's Issues Letter, paragraph 13(c).

¹²⁸ FMN, paragraph 94.

¹²⁹ FMN, paragraph 114.

¹³⁰ Parties' response to the CMA's Issues Letter, paragraph 61. Multi-listing refers to a reseller's use of multiple platforms to sell the same or very similar tickets.

online marketplaces in 2019. Therefore, the CMA believes that multi-listing is not prevalent beyond the Parties' websites and does not provide an additional constraint on the Parties beyond the constraints discussed below.

115. The CMA assesses the competitive constraint posed by the following in turn below:

(a) Secondary Ticketing Exchange Platforms, focusing on each of:

- (i) Uncapped Secondary Ticketing Exchange Platforms;
- (ii) Capped Secondary Ticketing Exchange Platforms; and

(b) Out-of-market constraints, namely:

- (i) Primary Ticketing Platforms;
- (ii) Other online channels; and
- (iii) Offline ticket sales.

Secondary Ticketing Exchange Platforms

116. As noted previously at paragraph 84, the Parties provide **Uncapped** Secondary Ticketing Exchange Platforms that allow resellers to freely set the price at which tickets are listed. Other platforms such as Ticketmaster Ticket Exchange cap the price at which tickets can be sold – these are referred to as **Capped** Secondary Ticketing Exchange Platforms. The extent to which these two categories of platform are likely to constrain the Merged Entity are discussed below.

- *Uncapped Secondary Ticketing Exchange Platforms*

117. Other than the Parties, only two Uncapped Secondary Ticketing Exchange Platforms operating in the UK were mentioned as existing players in the Secondary Ticketing Exchange Platforms market by third parties in the CMA's merger investigation, namely Vibe and Gigsberg.¹³¹ Vibe was mentioned by only two third parties, both of whom stated that it was small and questioned its

¹³¹ Historically Ticketmaster operated two Uncapped Secondary Ticketing Exchange Platforms: GetMeIn! and Seatwave. However, as noted above, Ticketmaster closed these in October 2018.

future as an Uncapped Secondary Ticketing Exchange Platform.¹³² The CMA thus believes Vibe exerts only a weak competitive constraint on the Parties.

118. Gigsberg describes itself as a secondary ticket marketplace offering guaranteed and secure tickets. Prices are set by resellers and may be above or below face value.¹³³ On this basis, the CMA considers that Gigsberg offers a similar service proposition to the Parties. However, as can be seen in **Table 1: The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK**, Gigsberg's share of supply in 2019 was only [0-5]% by GTV and its market position is, therefore, considerably smaller than that of the Parties. It is possible that as Gigsberg only entered the Secondary Ticketing Exchange Platforms market in 2019, it may expand its market position further (notwithstanding the short-term effects of Coronavirus (COVID-19)). However, the CMA considers that any growth is likely to be modest given the high barriers to expansion in this market (as discussed further below at paragraphs 162 to 167).
119. In the light of its low share of supply and the other evidence available, the CMA believes that Gigsberg exerts only a weak constraint on the Parties. In particular:
- (a) The internal documents submitted by the Parties do not appear to contain any references to Gigsberg. In addition, one viagogo internal document indicated that the most important factor for buyers and resellers is the '[X]', given that '[X]'.¹³⁴ The CMA considers that small Secondary Ticketing Exchange Platforms such as Gigsberg lack the network effects offered by the Parties, and are thus likely to exert only a weak competitive constraint.
 - (b) One consumer group doubted whether small platforms such as Gigsberg¹³⁵ would be profitable in the long-term.
 - (c) Only a small number of the resellers that responded to the CMA's market test said they used Gigsberg in 2019. For these resellers, Gigsberg accounted for only 10% or less of their sales.
 - (d) A minority of resellers listed Gigsberg as an alternative to the Parties, but none of these considered Gigsberg to be a particularly close alternative to

¹³² One of these stated that Vibe was a minor platform and doubted whether it would be profitable in the long-term. The other said that Vibe's operation is small and is moving away from the tickets industry and into fintech. Vibe was not mentioned by the Parties in the FMN although it was referred to in the Parties' response to the CMA's Issues Letter.

¹³³ [Gigsberg, About Us](#), 5 May 2020.

¹³⁴ Annex 139 to the FMN; '[X]', page 8.

¹³⁵ See footnote 81.

the Parties. In addition, resellers expressed reservations about Gigsberg, noting its recent entry into the market, low sales volumes and lack of reach.

- *Capped Secondary Ticketing Exchange Platforms*

120. There are several Capped Secondary Ticketing Exchange Platforms active in the UK market.¹³⁶ These suppliers (and their shares of supply by GTV, as estimated by the CMA in Table 1: **The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** above for 2019) are: Ticketmaster Ticket Exchange [5-10]%, AXS Official Resale [0-5]%, Eventim fanSale [0-5]%, Gigantic [0-5]%, TicketSwap [0-5]%, See Tickets Fan-to-Fan [0-5]%, and Twickets [0-5]%. All of these platforms have a limited market presence of less than [0-5]% share of supply, with the exception of Ticketmaster Ticket Exchange, which is slightly larger.
121. The majority of the Capped Secondary Ticketing Exchange Platforms listed in Table 1: **The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** above (namely Ticketmaster Ticket Exchange, AXS Official Resale, Eventim fanSALE, Gigantic and See Tickets Fan-to-Fan) are operated by providers whose main business is the supply of Primary Ticketing Platforms. The Parties submitted that these providers can use their strength in primary ticketing to drive traffic to their dedicated marketplaces.¹³⁷ As noted above at paragraph 68, the Parties also submitted that Ticketmaster Ticket Exchange could grow to a similar size to Ticketmaster's former websites, GetMeIn! and Seatwave.¹³⁸
122. The CMA notes that Capped Secondary Ticket Exchange Platforms operated by providers whose main business is operating a Primary Ticketing Platform may enjoy some advantages, such as being able to present secondary tickets alongside primary tickets and guaranteeing the authenticity of tickets.¹³⁹ However, such advantages have not translated into strong market positions: as reflected in Table 1: **The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** and noted above, Capped Secondary Ticket Exchange Platforms have low shares of supply (each less than [5-10]% and not substantially above 10% in aggregate).

¹³⁶ Like the Parties' platforms, these platforms typically guarantee that tickets will be valid.

¹³⁷ Through direct links, seamless integrations, marketing efforts, or economic incentives (FMN, paragraph 108).

¹³⁸ The CMA has considered the Parties' arguments in this respect later on in this decision in its assessment of barriers to entry and expansion.

¹³⁹ As highlighted by the Parties (FMN, paragraph 108).

123. The Parties submitted that as a whole, Capped Secondary Ticketing Exchange Platforms pose a constraint as resellers will always have the alternative of selling their tickets at a capped price mark-up.¹⁴⁰ The CMA notes that resellers can and do use these websites but believes that, for the reasons outlined further below, these platforms exert only a weak constraint on the Parties. The CMA has assessed the constraint posed by such platforms by considering in turn: (i) features of Capped Secondary Ticketing Platforms; (ii) the Parties' internal documents; and (iii) third party views.
- *The features of Capped Secondary Ticketing Exchange Platforms*
124. As explained previously at paragraph 67, Capped Secondary Ticketing Exchange Platforms (or 'fan-to-fan' websites) allow secondary tickets to be sold and bought by resellers and buyers, at a capped price. This cap is typically the face value of the ticket, often including a mark up to cover booking fees. Resellers may also not be permitted to price below face value.
125. The CMA considers that this key difference in service offering from Uncapped Secondary Ticketing Exchange Platforms limits the constraint posed by Capped Secondary Ticketing Exchange Platforms on the Parties. In particular, the CMA considers that the limits on the resale price make Capped Secondary Ticketing Exchange Platforms less attractive to ticket resellers and consequently reduce the volumes of tickets sold on these platforms to a significantly lower level than the Parties' Uncapped Secondary Ticketing Exchange Platforms. In addition, the available evidence indicates that Capped Secondary Ticketing Exchange Platforms may impose other material restrictions which also make them less appealing to resellers.
- (a) The Parties¹⁴¹ and several third parties indicated that the Capped Secondary Ticketing Exchange Platforms operated by the main providers of Primary Ticketing Platforms are only available for the resale of tickets bought through the associated Primary Ticketing Platform. One reseller said that these websites do not enable resale of events which are not sold out, because Primary Ticketing Platforms want their stock to sell first.
 - (b) Furthermore, another reseller described Capped Secondary Ticketing Exchange Platforms operated by providers of Primary Ticketing Platforms as only receiving stock for low demand events, being very fee heavy,

¹⁴⁰ Parties' response to the CMA's Issues Letter, paragraph 56.

¹⁴¹ Annex 74 to the FMN, 'Response to RFI 1', paragraph 19.

protecting their own primary ticket stock and not typically having what the ticket buyers are looking for.

- (c) Several resellers commented that, as well as ticket prices being capped, there are sometimes restrictions on selling tickets below face value, which mean they cannot use these websites to sell tickets which are less popular. One Capped Secondary Ticketing Exchange Platform said that event organisers decide whether tickets can be resold below face value on its platform.

126. In light of the two-sided nature of this market and the importance of network effects, the CMA believes that a lack of resellers is likely to make Capped Secondary Ticketing Exchange Platforms less attractive to ticket buyers, as they provide access to tickets for only a limited proportion of events that ticket buyers want to attend. The CMA believes that this lack of attractiveness to buyers will then lead to a further reduction in the attractiveness of these websites to resellers.

- *Internal documents*

127. The Parties' internal documents also indicate that Capped Secondary Ticketing Exchange Platforms exert a limited competitive constraint on the Parties.

- (a) The CMA notes that viagogo monitors StubHub to a much greater extent than it monitors Capped Secondary Ticketing Exchange Platforms. A globally focused internal note answering due diligence questions in April 2019 describes Capped Secondary Ticketing Exchange Platforms [REDACTED].¹⁴²

- (b) StubHub's internal documents indicate that it monitors competitors including Capped Secondary Ticketing Exchange Platforms to a limited extent (and significantly less than it monitors viagogo). Where it monitors Capped Secondary Ticketing Exchange Platforms, it typically does so [REDACTED].¹⁴³ Overall, the CMA believes that StubHub's internal documents indicate only a limited constraint from Capped Secondary Ticketing Exchange Platforms.

- *Third party views*

128. Providers of Capped Secondary Ticketing Exchange Platforms also identified limitations to their own competitiveness as against the Parties.

¹⁴² Annex 139 to the FMN, '[REDACTED]', page 3.

¹⁴³ Annex 64 to the FMN, '[REDACTED]', slide 26; Annex 60 to the FMN, '[REDACTED]', slide 22.

- (a) One provider of a Capped Secondary Ticketing Exchange Platform said that the extent to which it competes for buyers and resellers with other Secondary Exchange Ticketing Platforms (including the Parties) is limited because it only carries tickets originally purchased on its Primary Ticketing Platform and restricts the resale price to no more than the ticket's face value and fees.
 - (b) Another provider of a Capped Secondary Ticketing Exchange Platform said that it is a primary ticket seller 'first and foremost'.
- 129. The responses the CMA received from resellers further indicate that there are limitations to the constraint posed by Capped Secondary Ticketing Exchange Platforms on the Parties.
 - (a) Only a small minority of the resellers that responded to the CMA's merger investigation stated that they used Capped Secondary Ticketing Exchange Platforms in 2019. For these resellers, such platforms comprised less than 5% of their sales through Secondary Ticketing Exchange Platforms, and a few resellers indicated that these were used only when events were not as popular or profitable as anticipated.
 - (b) Only a small minority of resellers listed Capped Secondary Ticketing Exchange Platforms as alternatives to viagogo or StubHub for selling secondary tickets, and only one considered any Capped Secondary Ticketing Exchange Platform to be a particularly close alternative.
- 130. Other third parties who responded to the CMA's merger investigation did not consider Capped Secondary Ticketing Exchange Platforms as close competitors to the Parties' platforms for various reasons:
 - (a) One third party stated that Capped Secondary Ticketing Exchange Platforms lack ticket inventory and marketing;
 - (b) One consumer group noted that they offer a very different service for consumers, particularly with regard to ticket prices; and
 - (c) Another consumer group stated these platforms are unable to achieve the same prominence as the Parties with paid searches.

Conclusion on the constraint provided by Secondary Ticketing Exchange Platforms

- 131. For the reasons set out above, the CMA believes that other Secondary Ticketing Exchange Platforms represent, both individually and in aggregate, only a limited competitive constraint on the Parties.

Out-of-market constraints

- *Primary Ticketing Platforms*

132. For the reasons outlined above in relation to the frame of reference, the CMA does not consider Primary Ticket Platforms to be a close alternative to Secondary Ticketing Exchange Platforms (and has therefore not included them within the relevant frame of reference). However, the CMA has considered the extent to which Primary Ticketing Platforms exert an out-of-market constraint.
133. The Parties have submitted that they are constrained by Primary Ticketing Platforms in the following ways:
- (a) Primary Ticketing Platforms prevent inventory from reaching Secondary Ticketing Exchange Platforms, for example by making it more difficult for professional resellers to obtain tickets in the first place through pre-registration requirements or checking the attendee at the event is the person who bought the ticket by using named tickets or apps.¹⁴⁴ The Parties cited as examples restrictions on ticket purchases,¹⁴⁵ nominative ticketing,¹⁴⁶ 'In App' tickets,¹⁴⁷ and late release.¹⁴⁸
 - (b) New services and products, such as premium tickets and the other forms of 'dynamic pricing' described at paragraph 45(b) above, drive price convergence between Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms and attract volume from Secondary Ticketing Exchange Platforms.¹⁴⁹
 - (c) Competition for search engine marketing/paid search drives 60% of customer conversions in the ticketing industry. The Parties submitted that Primary Ticketing Platforms compete for online advertising (eg Google Search, Affiliates and Facebook ads), which redirects customers to their own websites.¹⁵⁰

¹⁴⁴ FMN, paragraph 113.

¹⁴⁵ For example, requiring pre-registration and restricting the number of tickets that can be bought.

¹⁴⁶ Nominative tickets can only be used by the individual who bought them on the Primary Ticketing Platform.

¹⁴⁷ 'In App' tickets prevent the transfer of a ticket outside official platforms.

¹⁴⁸ Issuing tickets to purchasers close to the date of the event, which limits their resale on Secondary Ticketing Exchange Platforms – see FMN, paragraph 113. The Parties also appeared to suggest that slow ticketing (as described in paragraph 45(b)) has a similar effect (FMN, paragraph 125).

¹⁴⁹ FMN, paragraph 111. As set out at paragraph 27(c) above, the Parties also submitted that the Coronavirus (COVID-19) outbreak would lead to increased [§] by Primary Ticketing Platforms, and [§] on Secondary Ticketing Exchange Platforms (Parties' response to the CMA's Issues Letter, paragraph 18), although they provided no evidence to support this submission.

¹⁵⁰ FMN, paragraph 112.

134. Further, the Parties submitted that the inference from the evidence in paragraph 48 above that buyers have a preference for buying tickets from Primary Ticketing Platforms should mean that Secondary Ticketing Exchange Platforms' conduct is constrained by Primary Ticketing Platforms.¹⁵¹

○ *Internal documents*

135. The Parties' internal documents do not support the Parties' submission that they see Primary Ticketing Platforms as a strong constraint on their own Secondary Ticketing Exchange Platforms. In the documents where the Parties refer to Primary Ticketing Platform players, these references tend to be limited to referring to Ticketmaster as a strong player within the Primary Ticketing Platforms market¹⁵² or being able restrict the flow of tickets to Secondary Ticketing Exchange Platforms¹⁵³ (rather than observing that it poses a strong constraint on the terms and fees of the Parties' Secondary Ticketing Exchange Platforms).

136. In addition, one internal document of the Parties indicates that the importance of Primary Ticketing Platforms as a competitive constraint should not be overstated; a viagogo internal document prepared by [REDACTED] in February 2018 describes the risk posed by the use of technology by Primary Ticketing Platforms to restrict resale as '[REDACTED]'.¹⁵⁴

137. The CMA further notes that the Parties' internal documents (in addition to the feedback received from third parties, as considered further below) do not indicate that dynamic pricing by Primary Ticketing Platforms poses a significant threat to the Parties' Secondary Ticketing Exchange Platforms.

(a) A viagogo internal document prepared by external consultants dated January 2018 notes that it did not consider dynamic pricing to be a [REDACTED].¹⁵⁵

(b) Another viagogo internal document prepared by external consultants dated September 2019 also states that sports teams have been [REDACTED].¹⁵⁶

¹⁵¹ Parties' response to the CMA's Issues Letter, paragraph 67.

¹⁵² For example, [REDACTED] dated March 2018 [REDACTED] (Annex 60 to the FMN, '[REDACTED]', slide 15). However, this observation is made in reference to Ticketmaster being a strong player *within* the market for Primary Ticketing Platforms (ie rather than as an observation that it imposed a strong constraint on the separate Secondary Ticketing Exchange Platforms market).

¹⁵³ A viagogo internal document prepared by [REDACTED] dated January 2018 [REDACTED]. Annex 65 to the FMN, '[REDACTED]', slide 6.

¹⁵⁴ Annex 117 to the FMN, '[REDACTED]', page 6.

¹⁵⁵ Annex 65 to the FMN, '[REDACTED]', slide 7.

¹⁵⁶ Annex 20 to the FMN, '[REDACTED]', page 5.

(c) A viagogo internal document prepared by external consultants in February 2018 said that [REDACTED]¹⁵⁷.¹⁵⁸

○ *Third party views*

138. As noted at paragraph 48(a), evidence from third parties indicates that buyers look first to Primary Ticketing Platforms and venues' websites for tickets and as such they are not a close alternative to the service provided by Secondary Ticketing Exchange Platforms. Although a number of resellers acknowledged that Ticketmaster was the strongest player *within* the Primary Ticketing Platform market, they did not indicate that Ticketmaster or other Primary Ticketing Platforms posed a constraint on the Parties.¹⁵⁹
139. As regards the Parties' submissions that there is increasing price convergence between Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms (and thus closeness of competition between the two platform types for buyers), as noted previously at paragraph 49 and consistently with the Parties' internal documents as cited at paragraph 137, the CMA has not received any evidence that Primary Ticketing Platforms use dynamic pricing or other flexible pricing solutions to any significant extent. Several Primary Ticketing Platforms cited by the Parties as offering dynamic pricing, VIP tickets and/or discounting said that such solutions comprised only a minimal proportion of their overall sales. One Primary Ticketing Platform said that some of its tickets were sold in this way but was not able to estimate proportions.
140. Moreover, the CMA considers that it is unclear why some of the types of dynamic pricing identified by the Parties would imply that Primary Ticketing Platforms impose a competitive constraint on Secondary Ticketing Exchange Platforms for buyers.^{160,161}
- (a) For buyers, a VIP ticket from a Primary Ticketing Platform may not be a close substitute for a standard ticket from a Secondary Ticketing Exchange Platform since it includes an additional experience or product

¹⁵⁷ The CMA understands that this is the case in the UK.

¹⁵⁸ Annex 117 to the FMN, '[REDACTED]', page 6.

¹⁵⁹ According to the Parties' estimates, Ticketmaster is the strongest Primary Ticketing Platform player in the UK, with a share of approximately 50% in primary ticketing by GTV, followed by See Tickets with 25%; Eventim with 12.5% and AXS with 12.5% (FMN, paragraph 94). The CMA has not sought to verify these estimates. See footnote 61 above.

¹⁶⁰ FMN, paragraphs 78(i) to (ii).

¹⁶¹ The category of ticket type that appears most similar to tickets on Secondary Ticketing Exchange Platforms are 'premium tickets', where prices are adjusted based on market factors. However, even for these, the evidence submitted by the Parties in relation to price convergence is not reliable (see paragraph 49(b) above).

(such as access to a bespoke part of the venue or the opportunity to meet the performer).

- (b) The Parties have not provided sufficient evidence to show that releasing primary tickets in batches, rather than in a single block, would intensify any constraint that Primary Ticketing Platforms may exert on Secondary Ticketing Exchange Platforms' fees.

○ *Additional considerations by the CMA*

141. There is evidence that Primary Ticketing Platforms are taking steps to limit access to tickets by Secondary Ticketing Exchange Platforms operated by rival suppliers¹⁶² and limit their monetisation.¹⁶³ However, the Parties have not explained how these developments might constrain the Merged Entity's fees, terms and/or quality of service. While these developments may affect the size of the market for the supply of Secondary Ticketing Exchange Platforms in the UK, it is not clear why they result in effective competition *between* Primary Ticketing Platforms and Secondary Ticketing Exchange Platforms.
142. The Parties' also submitted that Primary Ticketing Platforms compete with Secondary Ticketing Exchange Platforms for search engine marketing/paid search.¹⁶⁴ However, the CMA does not consider that this indicates that Primary Ticketing Platforms exert an effective constraint on Secondary Ticketing Exchange Platforms' fees and/or quality of service for the reasons set out at paragraph 53 above.
143. Finally, with regard to the Parties' argument that buyers' preference for Primary Ticketing Platforms suggests that they constrain Secondary Ticketing Exchange Platforms, the CMA again notes that, as outlined at paragraph 51 above, the two platform-types perform different functions. Even if buyers were able to switch to Primary Ticketing Platforms for the limited proportion of events where this is possible, the CMA considers that this would not be sufficient to constrain the fees charged to resellers by Secondary Ticketing Exchange Platforms for the reasons outlined at paragraph 52 above.

○ *Conclusion in relation to Primary Ticketing Platforms*

144. The CMA's believes, based on the above evidence considered in the round, that Primary Ticketing Platforms do not exert a sufficient constraint on the

¹⁶² For example, [§].

¹⁶³ Parties' response to the CMA's Issues Letter, paragraph 56.

¹⁶⁴ Parties' response to the CMA's Issues Letter, paragraph 67.

Merged Entity to mitigate the impact of the Merger on competition. In particular:

- (a) Given the Merged Entity's extremely high [80-90]% share of supply in Secondary Ticketing Exchange Platforms, any out-of-market constraint from Primary Ticketing Platforms would need to be very strong to closely constrain its behaviour.
- (b) The key issue which the CMA is considering in its competitive assessment is the extent to which the Merged Entity's fees, terms and/or quality of service are likely to be constrained by other market players. The CMA believes that the inability of resellers to switch to Primary Ticketing Platforms significantly diminishes the ability of Primary Ticketing Platforms to constrain the fees charged by the Merged Entity.^{165,166}

- *Other online channels*

145. The Parties submitted that other online marketplaces and social media websites like Facebook and Gumtree have large numbers of users and provide opportunities to buy and sell secondary tickets, and that these websites benefit from significant reputational equity and customer trust.¹⁶⁷ The Parties submitted that, as most of these online channels do not charge listing fees, resellers multi-list and sell the same ticket inventory across different websites to broaden the pool of potential buyers.¹⁶⁸ The Parties further submitted that resellers have a lot of options, including specialised platforms and professional reseller websites, stating that these all offer similar functionalities and services to the Parties, and can use the same assets to supply a range of tickets.¹⁶⁹
146. The CMA considers that the magnitude of ticket sales made on other online channels is unclear. The Parties' internal documents do not, in the round, indicate that either Party views other online channels (including online marketplaces, social media websites, specialised platforms and professional reseller websites) as posing a strong competitive constraint, particularly in

¹⁶⁵ Similarly, the CMA believes there are likely to be few constraints on the Merged Entity's ability to impose unfavourable terms on resellers.

¹⁶⁶ See also paragraphs 51-52 above.

¹⁶⁷ FMN, paragraphs 130 to 133.

¹⁶⁸ Parties' response to the CMA's Issues Letter, paragraph 38. The Parties also submitted that software tools eliminate the costs of multi-listing.

¹⁶⁹ Parties' response to the CMA's Issues Letter, paragraph 37. The Parties also submitted that other online ticketing channels (namely specialised platforms) compete for search engine marketing/paid search positions (Parties' response to the CMA's Issues Letter, paragraph 42). The CMA's assessment in paragraph 53 about the limitations of this evidence also applies when considering these websites.

comparison to that posed by the other Party. One internal StubHub document notes that social media websites [REDACTED]¹⁷⁰

147. In addition, and as noted above at paragraphs 59 to 61, the CMA does not consider other online channels to be a close alternative to Secondary Ticketing Exchange Platforms. All of the suppliers of classified advertising websites and social networks that responded to the CMA's merger investigation stated that they did not consider themselves to compete with the Parties for the selling and buying of secondary tickets. The CMA also notes that Facebook restricts the sale of tickets on its website.¹⁷¹
148. From the perspective of buyers, 'safe and secured transactions' and the 'authenticity' of tickets are key features for buyers using Secondary Ticketing Exchange Platforms (as outlined above in paragraph 60(a)). However, classified advertising websites and social networks do not offer guarantees to buyers. Consumer groups who responded to the CMA's merger investigation indicated that other online channels played a limited role in the sale of secondary tickets, with some stating that these types of website are unsafe, more open to fraud and offer fewer protections. In addition, the CMA notes that resellers are likely to be more fragmented across social media due to the wide variety of uses for such websites and restrictions on ticket sales and this fragmentation is expected to result in higher search costs for the buyers. Several consumer groups said that resellers on social networks and online marketplaces were typically those who could not attend events (ie consumers), rather than professional resellers, and that small volumes of tickets were sold on these platforms.
149. The vast majority of resellers that responded to the CMA's market test stated that they did not use social networks or classified advertising to sell tickets.¹⁷² Of those who did, most used such websites in limited circumstances (to sell tickets cheaper or at the last minute) and one noted that there is a risk of being 'scammed' on these platforms. Other resellers also commented that these websites were not suitable alternatives to the Parties' Platforms, by reference to:

(a) Fraud/lack of guarantees;

¹⁷⁰ Annex 60 to the FMN, '[REDACTED]', slide 24.

¹⁷¹ [Facebook Policies, Events or Admission Tickets](#) 22 April 2020. Specifically, Facebook does not allow the sale of tickets on its commerce websites except by 'approved aggregator partners'. Currently the only [REDACTED] such partners are [REDACTED].

¹⁷² The CMA notes that specialised platforms as well as other online channels were not mentioned by professional resellers as options. However, the CMA notes that some resellers indicated that eBay may now become an alternative to the Parties (having previously redirected ticket sales to StubHub). The CMA's investigation also revealed that the software tools which may facilitate the management of ticket inventories across different platforms are not a common feature in the UK.

- (b) Low sales/reach/consumer demand;
- (c) Concerns about compliance with consumer law; and
- (d) Issues with these websites being more time consuming to use.

150. Furthermore, the CMA notes that in light of the two-sided nature of the market and its indirect network effects, the fact that social networks and online marketplaces are less appealing for resellers also makes them less attractive to buyers, since fewer tickets are available.

151. In the light of the evidence above, and the evidence in paragraphs 59 to 61 explaining why these websites lie outside the relevant frame of reference, the CMA believes that other online channels exert a limited constraint on the Parties.

- *Offline ticket sales*

152. Offline sales include the sale of tickets in person close to the venue or elsewhere (eg by touts), ticket sales between friends and acquaintances and sales by outlets such as travel agents, hospitality providers and ticket wholesalers. The Parties submitted that they will continue to face competition from offline ticket sales, and that buyers and sellers on Secondary Ticketing Exchange Platforms use various offline channels to sell tickets.¹⁷³ The Parties submitted that offline outlets are an option for professional and non-professional resellers.¹⁷⁴ The Parties also submitted that competitive pressure from offline channels has meant that [REDACTED].¹⁷⁵

153. However, the CMA considers that there are important differences between online and offline channels. For buyers, offline sales require travel to meet the reseller and there is no guarantee that tickets will be available on arrival. Offline transactions also offer little security for buyers;¹⁷⁶ one competitor also noted that in particular, there are no guarantees of refunds if things go wrong (eg tickets are invalid). The CMA further notes that the availability of offline

¹⁷³ FMN, paragraphs 135 to 139.

¹⁷⁴ Parties' Response to the Issues Letter, paragraph 5.

¹⁷⁵ Annex 99 to the FMN, viagogo s.109(I), question 17. As evidence, the Parties pointed to an agreement with [REDACTED] (Annex 82 to the FMN, 'Response to RFI 2', paragraph 12). However, where firms can price discriminate, the presence of some customers that are able to switch does not protect the majority of customers from price rises as a result of weaker competition. The CMA considers that examples [REDACTED] is therefore not informative about the level of constraint posed by offline sales for the majority of the Parties' customers.

¹⁷⁶ A viagogo internal note answering due diligence questions in April 2019, considered offline to be a decreasing threat [REDACTED] (Annex 139 to the FMN, '[REDACTED]', page 1).

tickets is less predictable than for online tickets, further reducing their attractiveness for buyers.

154. The available evidence indicates that offline sales are of limited importance for ticket buyers given, as noted above at paragraph 60(a) above, ticket buyers tend to use online search to find tickets¹⁷⁷ and that search engine marketing/paid search drives 60% of conversions in the ticketing industry.¹⁷⁸ One competitor noted that there is a trend away from offline to online sales.
155. The CMA further notes that resellers wishing to use offline channels are required to physically travel to meet prospective buyers (eg outside the venue) and that none of the resellers that responded to the CMA's market test said that they sold tickets offline.
156. In the light of the evidence above, the CMA believes that offline ticketing sales represent a very limited competitive constraint to the Parties.

Conclusion on competitive constraints

157. For the reasons set out above, the CMA believes that other Secondary Ticketing Exchange Platforms and out-of-market Primary Ticketing Platforms, other online channels, and offline ticket sales, only pose a limited competitive constraint on the Parties, both individually and in aggregate.

Conclusion on horizontal unilateral effects

158. For the reasons outlined above, the CMA believes that:
 - (a) The Parties have a very high combined share of supply and the Merger will eliminate viagogo's only significant competitor in the UK;
 - (b) The Parties compete closely; and
 - (c) Other Secondary Ticketing Exchange Platforms, Primary Ticketing Platforms, other online channels, and offline ticket sales pose only a limited competitive constraint (both individually and in aggregate).
159. Accordingly, the CMA found that the Merger raises significant competition concerns as a result of horizontal unilateral effects in relation to the supply of

¹⁷⁷ Some consumer groups said that ticket buyers are led to Secondary Ticketing Exchange Platforms through Google. One competitor said that most events do not have an option to buy offline. It also said that offline secondary sales from touts on the street tend to be for those tickets they have been unable to sell online.

¹⁷⁸ FMN, paragraph 112.

online exchange platforms for selling and buying secondary tickets (ie Secondary Ticketing Exchange Platforms) in the UK.

Barriers to entry and expansion

160. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.¹⁷⁹ In terms of timeliness, the CMA's guidelines indicate that the CMA may consider entry within two years to be timely, but this is assessed on a case-by-case basis.¹⁸⁰
161. The Parties submitted that there are no significant barriers to entry or expansion in Secondary Ticketing Exchange Platforms, and that recent developments in the UK demonstrate the ease of entry.¹⁸¹ Specifically, the Parties submitted that:¹⁸²
- (a) Only a limited capital expenditure is required for an online ticketing platform to enter, with such costs mainly associated with setting up a website and investing in paid search marketing;
 - (b) Buyers and resellers can easily switch from one platform to another;
 - (c) There have been many recent entrants in the UK, notably providers of Capped Secondary Ticketing Exchange Platforms¹⁸³ and exiting the market does not lead to significant losses (the Parties cited Ticketmaster's decision to replace Seatwave and GetMeIn! with Ticketmaster Ticket Exchange);¹⁸⁴
 - (d) They expect competition from new entrants such as TEG (TEG Dainty Pty Ltd) and expansion by existing competitors such as Gigsberg and Gigantic;

¹⁷⁹ [Merger Assessment Guidelines](#), from paragraph 5.8.1.

¹⁸⁰ [Merger Assessment Guidelines](#), paragraph 5.8.11.

¹⁸¹ FMN, paragraph 171; Parties' response to the CMA's Issues Letter, paragraphs 49 to 52.

¹⁸² FMN, paragraphs 172 to 175; Parties' response to the CMA's Issues Letter, paragraphs 49 to 52.

¹⁸³ The Parties also submitted that greater weight should be given to observed entry in the UK market, referring to several recent Capped Secondary Ticketing Exchange Platforms entrants, including AXS Official Resale, Eventim fanSALE, See Tickets Fan-to-Fan, Ticketmaster Ticket Exchange, Twickets, Dice and WeGotTickets (Parties' response to the CMA's Issues Letter, paragraph 50).

¹⁸⁴ Parties' response to the CMA's Issues Letter, paragraph 51.

- (e) Secondary Ticketing Exchange Platforms operated by a supplier of a Primary Ticketing Platform would benefit from cross promotion on the primary website,¹⁸⁵ and
- (f) Major technology firms such as Google or Facebook may enter the online ticketing industry in the UK.

162. Overall, the CMA considers that evidence from the Parties' internal documents and third parties does not support the Parties' submissions. This evidence indicates that there are substantial barriers to entry and expansion in the supply of Secondary Ticketing Exchange Platforms in the UK.
163. First, the CMA considers that the network effects (as described in paragraph 40) are likely to make it difficult for rivals to enter and expand in the supply of Secondary Ticketing Exchange Platforms in the UK. Since the Merged Entity would account for the vast majority of sales in the relevant market (as shown by the Parties' very high combined shares of supply of [80-90]% cited in Table 1: **The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK**), the CMA considers that these network effects are likely to act as a substantial obstacle for its competitors.¹⁸⁶ The relevance of such network effects is supported by the Parties' internal documents, for example:
- (a) An internal viagogo presentation dated February 2019 states there are '[redacted]' and that the Secondary Ticketing Exchange Platforms market is characterised by '[redacted]'. It goes on to say that '[redacted]'.¹⁸⁷
 - (b) The same presentation also states that '[redacted]' and that '[redacted]'.¹⁸⁸
 - (c) An internal viagogo note answering due diligence questions dated April 2019 states that the '[redacted]'.¹⁸⁹
 - (d) A viagogo and StubHub presentation titled '[redacted]' dated October 2019 lists network effects as a barrier to entry, explaining that '[redacted]'.¹⁹⁰
164. Second, the CMA considers that the Merged Entity is likely to enjoy a scale advantage in relation to marketing costs. viagogo's relative size in the market

¹⁸⁵ FMN, paragraph 78(iii).

¹⁸⁶ The CMA considers that network effects can be less of an obstacle to entry when one side of the market multi-homes. However, of the resellers that responded to the CMA's merger investigation, about half did not list tickets on websites other than one or both of the Parties' websites in 2019 (see paragraph 114). By removing viagogo's only significant competitor, the CMA considers it likely that this would result in a high proportion of resellers that only list tickets on the Merged Entity's website(s).

¹⁸⁷ Annex 10 to the FMN, '[redacted]', slide 12.

¹⁸⁸ Annex 10 to the FMN, '[redacted]', slide 17.

¹⁸⁹ Annex 139 to the FMN, '[redacted]', page 3.

¹⁹⁰ Annex 24 to the FMN, '[redacted]', slide 23.

and the evidence from its internal documents indicates that viagogo can pay significantly more for online paid search and marketing. The CMA considers that this may make it even harder for smaller rivals to grow and overcome the network effects discussed above. Several viagogo internal documents refer to a scale advantage in relation to marketing costs, including:

- (a) An internal viagogo note outlining viagogo's position in the ticketing market dated April 2019 states that '[REDACTED]', such as paid Google Search and other online marketing channels, which makes it '[REDACTED]'. In addition, the document states that '[REDACTED]'.¹⁹¹
- (b) An internal viagogo presentation dated February 2019 states that it '[REDACTED]' and that viagogo's '[REDACTED]' makes it '[REDACTED]'.¹⁹²
- (c) A viagogo and StubHub presentation dated October 2019 identifies '[REDACTED]' as a barrier to entry.¹⁹³

165. Third, the CMA considers that other barriers to entry also exist in this market. Several viagogo internal documents refer to there being 'significant' or 'strong' barriers to entry for Secondary Ticketing Exchange Platforms.¹⁹⁴ In particular, these documents refer to:

- (a) '[REDACTED]'.¹⁹⁵
- (b) The fact that increased scale enables the Merged Entity to undertake '[REDACTED]'.¹⁹⁶
- (c) A viagogo document referencing the CMA's Consumer Secondary Ticketing enforcement work indicated that the CMA's actions have inhibited the ability of viagogo's competitors '[REDACTED]'.¹⁹⁷

166. The CMA notes that several providers of Capped Secondary Ticketing Exchange Platforms have entered in recent years.¹⁹⁸ However, the CMA considers that such platforms exert a limited constraint, even when operated

¹⁹¹ Annex 139 to the FMN, '[REDACTED]', page 3.

¹⁹² Annex 10 to the FMN, '[REDACTED]', slide 12.

¹⁹³ The CMA understand that '[REDACTED]' in this context refers to '[REDACTED]' in Secondary Ticketing Exchange Platforms (Annex 24 to the FMN, '[REDACTED]', slide 23).

¹⁹⁴ Annex 10 to the FMN, '[REDACTED]', slide 12 to 17; Annex 24 to the FMN, '[REDACTED]', slide 46, Annex 139 to the FMN, '[REDACTED]', page 3.

¹⁹⁵ Annex 18 to the FMN, '[REDACTED]', slide 12; Annex 24 to FMN, '[REDACTED]', slide 23.

¹⁹⁶ Annex 19 to the FMN, '[REDACTED]', slide 32; Annex 24 to FMN, '[REDACTED]', slides 17 to 23.

¹⁹⁷ Annex 67 to the FMN, '[REDACTED]', slide 3.

¹⁹⁸ This includes AXS Official Resale, Eventim fanSALE, See Tickets Fan-to-Fan, Ticketmaster Ticket Exchange, Twickets, Dice or WeGotTickets, as set out in the Parties' response to the CMA's Issues Letter, paragraph 50.

by providers whose main business is the supply of Primary Ticketing Platforms (as discussed above at paragraphs 120 to 131).

167. Further, the CMA believes that Ticketmaster's decision to close its Uncapped Ticketing Exchange Platforms implies that barriers to expansion may be significant even for large providers such as Ticketmaster whose main business is the supply of Primary Ticketing Platforms. For example, a viagogo document prepared by [redacted] in February 2018 states that '[redacted]'.¹⁹⁹
168. Ticketmaster Ticket Exchange only entered the market in 2019 and it may expand its market position further. However, the CMA has not seen any evidence to suggest that its growth would be sufficient to mitigate an SLC. The CMA also notes in this regard that:
- (a) GetMeIn! and Seatwave (which were Uncapped Secondary Ticketing Exchange Platforms) had limited past success in this market (in 2018, their combined share of supply was only [5-10]% (see Table 1: **The CMA's share of supply estimates for the supply of Secondary Ticketing Exchange Platforms in the UK** above), which was significantly smaller than both Parties).²⁰⁰
 - (b) The imposition of price capping and restrictions on the tickets which can be sold on Ticketmaster Ticket Exchange will, as noted previously, likely make it a less attractive proposition to resellers than the offerings of the Parties.
 - (c) A viagogo internal document prepared by external consultants [redacted] about the Merger dated August 2019 states that viagogo has '[redacted]' and that '[redacted]'.²⁰¹
169. Responses to the CMA's merger investigation from third parties, including those active in the Secondary Ticketing Exchange Platform market outside the UK, those active in the Primary Ticketing Platform market in the UK, and larger technology players, did not indicate any intention to enter the Secondary Ticketing Exchange Platform market in the UK.
170. Two competitors active in Secondary Ticketing Exchange Platforms in the UK indicated that they had plans to expand prior to the Coronavirus (COVID-19) outbreak. However, these competitors are currently substantially smaller than the Parties and one of these competitors noted that a large capital investment

¹⁹⁹ Annex 117 to the FMN, '[redacted]', page 5.

²⁰⁰ Since these websites closed in late 2018, this share of supply will be a slight underestimate of their share over a full year of operation.

²⁰¹ Annex 19 to the FMN, '[redacted]', page 24.

would be required to expand (consistent with viagogo's internal documents, as discussed in paragraph 164). The CMA has not seen any evidence to suggest that any expansion would be timely, likely and sufficient to prevent an SLC from arising as a result of the Merger.

171. For the reasons set out above, the CMA believes there are significant barriers to entry and expansion in the supply of Secondary Ticketing Exchange Platforms in the UK. As a result, the CMA believes that entry or expansion would not be timely, likely or sufficient to prevent a realistic prospect of an SLC as a result of the Merger.

Countervailing buyer power

172. In some circumstances, an individual customer may be able to use its negotiating strength to limit the ability of a merged firm to raise prices. The CMA refers to this as countervailing buyer power.²⁰²
173. The Parties submitted that event organisers and Primary Ticketing Platforms are in a strong position to constrain Secondary Ticketing Exchange Platforms. However, the CMA notes that event organisers and Primary Ticketing Platforms are not customers of the Parties. The constraint imposed by Primary Ticketing Platforms as competitors to the Parties is discussed in paragraphs 132 to 142 above.
174. The Parties also submitted that Secondary Ticketing Exchange Platforms face downward pressure on fees from professional resellers and that professional resellers could set up their own resale website if they were dissatisfied with the Parties.²⁰³ The Parties did not provide any evidence of professional resellers setting up their own website in response to dissatisfaction with the Parties. The CMA also considers that the barriers to entry and expansion set out at paragraphs 160 to 171 would make it difficult for professional resellers to set up resale websites that would exert a competitive constraint on the Parties. Further, as discussed at paragraph 60 above, no resellers responding to the CMA's investigation who sell tickets via their own professional reseller websites indicated that their websites were alternatives to the Parties.
175. Moreover, the CMA considers that individual resellers are limited in their ability to put pressure on the Parties due to their relatively small size. For example, an internal viagogo document stated that [X] unique resellers used its platform globally and no single reseller made up over [X]% of viagogo's

²⁰² [Merger Assessment Guidelines](#), paragraph 5.9.1.

²⁰³ FMN, paragraphs 176 to 179.

global revenue in 2018.²⁰⁴ Additionally, the CMA considers that the Merged Entity's very high share of supply and the limited constraint exerted by alternative sales channels (as discussed in paragraphs 111 to 159 above) will further increase its bargaining power vis-à-vis resellers. This is consistent with the third party concerns about the Merger set out above.

176. Accordingly, the CMA believes that resellers do not have a sufficient degree of countervailing buyer power to constrain the Merged Entity from exercising its market power and prevent a realistic prospect of an SLC as a result of the Merger.

Efficiencies and customer benefits

177. The Parties have submitted that the Merger will enable cost savings through addressing inefficiencies in StubHub's cost structure and removing overlaps between the Parties' respective businesses.²⁰⁵
178. However, the CMA believes there is insufficient evidence to conclude that any such cost savings would be passed on to customers or would be sufficiently significant to prevent a realistic prospect of an SLC as a result of the Merger.

Conclusion on substantial lessening of competition

179. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal unilateral effects in relation to the supply of online exchange platforms for selling and buying secondary tickets (ie Secondary Ticketing Exchange Platforms) in the UK.

Decision

180. Consequently, the CMA believes that it is or may be the case that (i) a relevant merger situation has been created; and (ii) the creation of that situation has resulted, or may be expected to result, in an SLC within a market or markets in the United Kingdom.
181. The CMA therefore believes that it is under a duty to refer under section 22(1) of the Act. However, the duty to refer is not exercised whilst the CMA is considering whether to accept undertakings under section 73 of the Act

²⁰⁴ Annex 18 to the FMN, '[

²⁰⁵ FMN, paragraph 181; Annex 74 to FMN, 'Response to RFI 1', page 12.

instead of making such a reference.²⁰⁶ viagogo has until 18 June 2020²⁰⁷ to offer an undertaking to the CMA.²⁰⁸ The CMA will refer the Merger for a phase 2 investigation²⁰⁹ if viagogo does not offer an undertaking by this date; if viagogo indicates before this date that it does not wish to offer an undertaking; or if the CMA decides²¹⁰ by 25 June 2020 that there are no reasonable grounds for believing that it might accept the undertaking offered by viagogo, or a modified version of it.

182. The statutory four-month period mentioned in section 24 of the Act in which the CMA must reach a decision on reference in this case expires on 13 June 2020. For the avoidance of doubt, the CMA hereby gives viagogo notice pursuant to section 25(4) of the Act that it is extending the four-month period mentioned in section 24 of the Act. This extension comes into force on the date of receipt of this notice by viagogo and will end with the earliest of the following events: the giving of the undertakings concerned; the expiry of the period of 10 working days beginning with the first day after the receipt by the CMA of a notice from viagogo stating that it does not intend to give the undertakings; or the cancellation by the CMA of the extension.

Andrea Gomes da Silva
Executive Director, Mergers and Markets
Competition and Markets Authority
11 June 2020

²⁰⁶ Section 22(3)(b) of the Act.

²⁰⁷ Section 73A(1) of the Act.

²⁰⁸ Section 73(2) of the Act.

²⁰⁹ Sections 22(1) and 34ZA(2) of the Act.

²¹⁰ Section 73A(2) of the Act.

ANNEX: THE CMA'S DETAILED ASSESSMENT OF THE CRA ANALYSIS

183. The CRA Analysis of the Google AdWords Suspension is described in paragraph 103. This Annex provides a more detailed assessment of the CRA Analysis, and also considers CRA's further submission provided with the Parties' response to the Issues Letter (**CRA Response**).²¹¹
184. In general, the CMA considers that an event analysis can provide valuable insight into competitive conditions as it may show how consumers reacted to a sudden change. In order to provide reliable results, it is however essential that the studied event occurs at a time when no other changes were taking place in the market or, if it occurs in the presence of such changes, that the analysis can appropriately control for them. Only in these circumstances can the specific impact of the event in question be identified.
185. In this case, the CMA considers that the CRA Analysis of SimilarWeb's traffic data does not provide a reliable indication of the closeness of competition between viagogo and alternative platforms. This is because of the following important limitations, which fundamentally undermine the interpretation of the results:
- (a) CRA's methodology is not able to adequately isolate the effect of the Google AdWords Suspension on the traffic of other platforms (including StubHub); and
 - (b) The CRA Analysis focuses on generic traffic data which does not deliver a reliable picture of buyers' substitution patterns at the point of purchase.
186. First, CRA does not control for factors which, through their impact on traffic, are likely to affect the before-after comparison underpinning the CRA Analysis. The CMA considers that the results are therefore likely to be biased and unreliable. Examples of these factors may include changes in platforms' marketing activities, the number of events on sale (in general as well as on different platforms), the number of sellers active on each website, seasonal differences in a specific platform's traffic as well as industry-wide shocks or

²¹¹ Annex 1 to Parties' response to the CMA's Issues Letter, (the **CRA Response**). In this document, CRA responds to the technical objections made by the CMA in the Issues Letter in relation to the CRA Analysis. Overall CRA defends its approach as informative and methodologically sound. CRA submits that the risk of distortion or biases due to other factors that cannot be controlled for in the analysis remains limited in this case.

trends like the launch of large events and a change in the use of ticketing platforms in general.²¹²

187. Confirmation of the presence of some of these omitted factors can be directly found in the CRA Analysis. For example, Figure 4 of the CRA Analysis shows that the number of active sellers on viagogo and StubHub is not stable over time.²¹³ The CMA considers this is problematic for the analysis because, consistent with the two-sided nature of the online ticketing business, if the number of resellers on the platforms varies, then the platforms are likely to become more or less attractive to buyers.²¹⁴ The CRA Analysis does not disentangle to what extent the changes in traffic identified are due to the Google AdWords Suspension rather than a change in the number of active resellers (and number of events) on the platforms included in the analysis.²¹⁵
188. Second, even if CRA's methodology did control for the omitted factors above and could deliver reliable estimates of the impact of the Google AdWords Suspension (which the CMA believes not to be the case), the CMA considers the CRA Analysis would be of limited value.²¹⁶ This is because, by focussing on general traffic data rather than ticket sales, CRA's results are of limited value for understanding whether buyers are willing to (or able to) substitute viagogo for an alternative platform at the point of purchasing a ticket.²¹⁷
189. In addition to these overarching limitations, CRA adjusts its methodology to measure the effect of the Google AdWords Suspension on each platform

²¹² The CRA Response argues that other factors are adequately controlled for. It submits that industry shocks, such as the launch of new large events, are not problematic because - by measuring the impact of the Google AdWords Suspension with respect to the second-worst performing platform - CRA's methodology indirectly controls for these shocks by netting their effect out of the estimates. The CMA however notes this would only hold under the assumption that the industry shock would have an equal impact on all platforms. Given the degree of differentiation among the platforms included in the analysis, there is no reason to believe this would be the case (eg the launch of a big music event is likely to affect music-focused platforms more than sport-focused platforms). Further, CRA argues that its alternative specification, Method 2, is less likely to be biased by time trends since it focuses on a truncated dataset (from December 2018 to November 2019). The CMA however notes that Method 2 still covers a long enough period (ie twelve months) for CRA's results to be adversely affected by industry-wide and platform-specific shocks or trends.

²¹³ In particular, Figure 4 shows that [REDACTED].

²¹⁴ CRA submits that this is not problematic since the number of active resellers and traffic are not closely correlated. However, as discussed in paragraph 163, due to the presence of network effects, the number of resellers and events listed on the platform affects its attractiveness to ticket buyers. The CMA thus considers that this factor is relevant. Insofar as the number of resellers is not closely correlated with traffic, this points to drawbacks in the reliability of traffic as a metric (as discussed in paragraph 188).

²¹⁵ In particular, the CMA notes that (assuming that the attractiveness of [REDACTED] (in the form of the number of resellers on the platform) decreases at a similar time to the [REDACTED] would have the effect of underestimating the shift in traffic from viagogo to StubHub due to the Google AdWords Suspension and therefore the closeness of the Parties.

²¹⁶ In particular, taken at face value, CRA's results at best compare the relative changes in traffic seen by different platforms during the Google AdWords Suspension and indicate that Eventbrite, See Tickets and Ticketmaster experienced a more pronounced uplift in traffic than StubHub.

²¹⁷ Moreover, it is unclear how closely customers' reactions to a change in viagogo's advertising activity mirror how those customers would react to a change in viagogo's fees or terms.

relative to the second-worst performing platform after viagogo.²¹⁸ The CMA considers that the logic underpinning this adjustment is unclear²¹⁹ and is likely to make the interpretation of the results less straightforward.²²⁰

190. In light of the above, the CMA considers that the CRA Analysis of the impact of the Google AdWords Suspension on other platforms' traffic does not provide reliable evidence of the closeness of competition between the Parties.
191. With regard to CRA's graphical analysis, the CMA considers the evidence it provides in relation to the closeness of competition between the Parties to be inconclusive. As with the traffic analysis discussed above, this is due to the presence of factors that are likely to affect the plotted metrics at the same time as the Google AdWords Suspension but that are not controlled for in the analysis.

²¹⁸ That is the platform which, following CRA's regression, appears to have lost the largest amount of traffic after viagogo.

²¹⁹ As discussed above, the CMA disagrees that measuring the change with respect to second-worst performing platform controls for industry-wide trends or shocks such as the launch of new large events (see footnote 215).

²²⁰ As also acknowledged by CRA, which stated that its results are not to be interpreted as standard diversion ratios as they do not measure the proportion of traffic lost by viagogo that was recaptured by alternative platforms (Annex 1 to the Parties' response to the CMA's Issues Letter, 'CRA Response', page 4).