

# Anticipated acquisition by Adevinta ASA of eBay Classifieds Group from eBay Inc., and eBay Inc.'s acquisition of a minority stake in Adevinta ASA

## Decision that undertakings might be accepted

**ME/6897/20**

The CMA's decision under section 73A(2) of the Enterprise Act 2002 that undertakings might be accepted, given on 2 March 2021. Full text of the decision published on 8 April 2021.

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

### Introduction

1. Adevinta ASA (**Adevinta**), has agreed to acquire eBay Classifieds Group (**eCG**) from eBay Inc. (**eBay**), and eBay has agreed to acquire shares in Adevinta representing approximately 33.3% of the voting rights (and approximately a 44% economic interest) (the **Merger**). Schibsted ASA (**Schibsted**), an international media company, is currently the majority shareholder in Adevinta, holding 59.3% of the shares, and will retain approximately 39.5% of the voting rights (and approximately a 33.1% economic interest). Adevinta, Schibsted, eCG and eBay are together referred to as the **Parties**.
2. On 16 February 2021, the Competition and Markets Authority (**CMA**) decided under section 33(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the Merger consists of arrangements that are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, and that this may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the United Kingdom (the **SLC Decision**).
3. On the date of the SLC Decision, the CMA gave notice pursuant to section 34ZA(1)(b) of the Act to the Parties of the SLC Decision. However, the CMA did not refer the Merger for a phase 2 investigation pursuant to section

33(3)(b) on the date of the SLC Decision in order to allow the Parties the opportunity to offer undertakings to the CMA in lieu of such reference for the purposes of section 73(2) of the Act.

4. Pursuant to section 73A(1) of the Act, if a party wishes to offer undertakings for the purposes of section 73(2) of the Act, it must do so within the five working day period specified in section 73A(1)(a) of the Act. Accordingly, on 23 February 2021 the Parties offered undertakings to the CMA for the purposes of section 73(2) of the Act.
5. The CMA now gives notice, pursuant to section 73A(2)(b) of the Act, to the Parties that it considers that there are reasonable grounds for believing that the undertakings offered, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act and that it is considering the offer.

## The undertakings offered

6. Under section 73 of the Act, the CMA may, instead of making a reference, and for the purpose of remedying, mitigating or preventing the SLC concerned or any adverse effect which has or may have resulted from it or may be expected to result from it, accept from such of the merger parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.
7. Adeventa's Shpock and eCG's Gumtree overlap in the provision of 'generalist'<sup>1</sup> online classified advertising services in the UK, which enable primarily consumer sellers to list a broad range of primarily used consumer goods for sale. eBay, as well as operating eCG, has an online marketplace in the UK, eBay.co.uk (**eBay Marketplace**), a significant part of which concerns consumer-to-consumer (**C2C**) sales of used goods. The CMA found that each of Shpock, Gumtree and eBay Marketplace compete closely and that Gumtree has significant potential to compete with eBay Marketplace in the UK in the counterfactual where absent the Merger it would be independent of eBay.
8. The SLC Decision found that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of generalist online classified advertising services and C2C online marketplaces in the UK. To address this SLC, the Parties have offered to give undertakings

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<sup>1</sup> 'General' classified online classified advertising refers to platforms that provide classified advertising for a broad range of consumer goods, in contrast to 'specialist' or 'vertical' classified advertising platforms focused on specific products or services (primarily in relation to motor vehicles, property, or jobs).

in lieu of a reference to divest Gumtree's UK business (including Motors.co.uk) (**Gumtree UK**) and Shpock (the **Proposed Undertakings**). Specifically, the divestments comprise the following:

- (a) All of the shares in Gumtree.com Ltd, which owns the Gumtree UK business, including the Motors.co.uk business (via its sole subsidiary, Motors.co.uk Ltd). The Gumtree UK business includes the Gumtree UK and Motors.co.uk platforms, related tangible and intangible assets, employees, leaseholds, contracts and goodwill. The Gumtree UK business will be sold without any financial liabilities (ie on a debt-free basis).
  - (b) All of the shares in Finderly GmbH, the holding company of Shpock Services LKH Ltd, which owns the Shpock business. The divestiture package comprises the entire Shpock business covering all geographies in which it operates (Austria, Germany and the UK). The Shpock business includes the Shpock platform, related tangible and intangible assets, employees, leaseholds, contracts and goodwill. The Shpock business will be sold without any financial liabilities (ie on a debt-free basis).
9. Adevinta and eBay have offered to provide transitional services in relation to Shpock and Gumtree UK respectively as part of the Proposed Undertakings.
  10. In addition, in relation to the divestment of Shpock, Adevinta has also offered to enter into a purchase agreement with a purchaser approved by the CMA before the CMA finally accepts the Proposed Undertakings (**Upfront Buyer Condition**).
  11. Furthermore, the purchaser of Gumtree would need to be agreed with the CMA, as to avoid any potential unintended consequences which may result from the divestment. The divestment needs to be completed within an agreed timeframe, unless otherwise agreed in writing with the CMA.

## **The CMA's provisional views**

12. The CMA considers that undertakings in lieu of a reference are appropriate when they are clear-cut and capable of ready implementation. The CMA's starting point when assessing undertakings is to seek an outcome that restores competition to the level that would have prevailed absent the merger.<sup>2</sup>

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<sup>2</sup> [Mergers remedies \(CMA87\)](#), December 2018, Chapter 3 (in particular paragraphs 3.27, 3.28 and 3.30).

13. The CMA believes that the Proposed Undertakings, or a modified version of them, might be acceptable as a suitable remedy to the SLC identified by the CMA, given that they would result in the full divestment of both Shpock and Gumtree UK, and would replace the competitive constraint provided by Shpock and Gumtree on eBay Marketplace that would otherwise be lost following the Merger.
14. The CMA currently believes that the Proposed Undertakings are capable of amounting to a sufficiently clear-cut and effective resolution of the CMA's competition concerns. The CMA also believes at this stage that the Proposed Undertakings may be capable of ready implementation, in light of evidence that both Gumtree UK and Shpock are largely standalone businesses.
15. The Parties provided evidence that Gumtree UK is a viable and profitable business and that a number of potential purchasers, with current or prior experience in the online classified advertising industry, have expressed an interest in acquiring the business. The CMA therefore believes that, in order to accept the Proposed Undertakings, an upfront buyer provision would not need to be included in relation to the divestment of Gumtree UK.
16. The CMA considers that Gumtree should be divested within [X] of when the decision to accept the undertakings has been published, unless otherwise agreed in writing by the CMA. The purchaser of Gumtree would need to be agreed with the CMA, prior to completion of the transaction. This is necessary in order to avoid any potential unintended consequences which may result from the divestment.
17. With regards to the divestment of Shpock, the CMA considers that an Upfront Buyer Condition is necessary given that [X] and there are likely to be only a limited number of suitable purchasers for the business.<sup>3</sup>
18. The Upfront Buyer Condition means that the CMA will only accept the Proposed Undertakings in relation to the divestment of Shpock after Adevinta has entered into an agreement with a nominated purchaser that the CMA considers to be suitable. It also means that, before acceptance, the CMA will consult publicly on the suitability of the nominated purchaser, as well as other aspects of the Proposed Undertakings.
19. For the above reasons, the CMA currently thinks that there are reasonable grounds for believing that the Proposed Undertakings, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act.

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<sup>3</sup> See [CMA 87](#) paragraphs 5.28–5.32, and [CMA2](#), paragraph 8.34.

20. The CMA's decision on whether ultimately to accept the Proposed Undertakings or refer the Merger for a phase 2 investigation will be informed by, among other things, third party views on whether the Proposed Undertakings are suitable to address the competition concerns identified by the CMA. Consultation process
21. Full details of the undertakings offered will be published in due course when the CMA consults on the undertakings offered as required by Schedule 10 of the Act.<sup>4</sup>

## **Decision**

22. The CMA therefore considers that there are reasonable grounds for believing that the Proposed Undertakings offered by the Parties, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act. The CMA now has until 29 April 2021 pursuant to section 73A(3) of the Act to decide whether to accept the undertakings, with the possibility to extend this timeframe pursuant to section 73A(4) of the Act to 28 June 2021 if it considers that there are special reasons for doing so. If no undertakings are accepted, the CMA will refer the Merger for a phase 2 investigation pursuant to sections 33(1) and 34ZA(2) of the Act.

**Joel Bamford**  
**Senior Director, Mergers**  
**Competition and Markets Authority**  
**2 March 2021**

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<sup>4</sup> [CMA2](#), paragraph 8.29.