

Anticipated Acquisition of eBay Classifieds Group by Adevinta Asa

Notice under paragraph 2(1) of Schedule 10 to the Enterprise Act 2002 (the Act) – in lieu of reference pursuant to section 73 of the Act

ME/6897/20

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**).
2. 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**. For statements referring to the future, the combination of Adevinta and eCG is referred to as the **Merged Entity**.
3. 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**). The text of the SLC Decision is available on the CMA webpage.¹
4. On 23 February 2021, the Parties offered undertakings in lieu of reference to the CMA for the purposes of section 73(2) of the Act.

¹ [SLC Decision](#) on the Merger.

5. On 2 March 2021, the CMA gave notice to the Parties, pursuant to section 73A(2)(b) of the Act, 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 Parties' offer (**the UIL Provisional Acceptance Decision**).

The undertakings offered

6. As set out in the SLC Decision, the CMA found a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of generalist online generalist classified advertising services and consumer-to-consumer (**C2C**) online marketplaces in the UK. 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.
7. As set out in the UIL Provisional Acceptance Decision, to address the SLC identified by the CMA, the Parties have offered undertakings 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, which owns the Shpock business and has a subsidiary Shpock Services LKH Ltd (collectively referred to below as **Shpock**). The divestiture package therefore 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).
8. Adevinta and eBay have offered to provide transitional services in relation to Shpock and Gumtree UK respectively as part of the Proposed Undertakings.

9. As set out in the UIL Provisional Acceptance Decision, for 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**).
10. Adevinta has proposed RussMedia Equity Partners (**RussMedia**) as the upfront buyer. The agreement for the sale and purchase of Shpock will be conditional on acceptance by the CMA of the Proposed Undertakings, including approval of RussMedia as the buyer of Shpock.
11. Furthermore, the purchaser of Gumtree UK would need to be agreed with the CMA.
12. Each divestment would need to be completed within an agreed timeframe, unless otherwise agreed in writing with the CMA.
13. The text of the Proposed Undertakings is available on the CMA webpage.²

CMA assessment

14. The CMA currently considers that, subject to responses to the consultation required by Schedule 10 of the Act, the Proposed Undertakings, or a modified version of them, will resolve the SLC identified in the SLC Decision in a clear-cut manner, ie the CMA currently does not have material doubts about the overall effectiveness of the Proposed Undertakings or concerns about their implementation.³
15. The CMA also considers that the Proposed Undertakings would be capable of ready implementation, because:
 - (a) For the Proposed Undertakings relating to Shpock:
 - (i) Shpock is already a standalone business within the Adevinta group, organised under its holding company Finderly GmbH. Shpock has very limited operational links with the wider Adevinta business. Accordingly, the divestment would be straightforward to implement and the scope and duration of any transitional service agreements would be limited.
 - (ii) The Upfront Buyer Condition for the divestment of Shpock means that the CMA would accept the Proposed Undertakings only after Adevinta

² See [Adevinta / eBay merger inquiry - GOV.UK \(www.gov.uk\)](http://www.gov.uk).

³ [Merger remedies \(CMA87\)](#), December 2018, Chapter 3, paragraph 3.28.

has entered into an agreement with a proposed purchaser that the CMA considers to be suitable.

(iii) In light of the upfront purchaser condition, the CMA considers that the sale process can move forward quickly “and signing is achievable prior to the expiry of the CMA’s deadline, as extended.

(b) For the Proposed Undertakings relating to Gumtree UK:

(i) The CMA does not consider it appropriate to seek an upfront buyer in respect of the divestiture of Gumtree UK because Gumtree UK is already a largely standalone business within the eCG group. Gumtree UK has standard operational links with the wider eCG and eBay group.

(ii) The CMA does not have material concerns as to the viability or attractiveness of the proposed divestiture of Gumtree UK to potential purchasers (ie composition risk) or the availability of suitable purchasers (ie purchaser risk).

(iii) The CMA has also been provided with evidence of a number of potentially suitable purchasers who have expressed an interest in purchasing Gumtree UK.

Suitability of the proposed purchaser for Shpock

16. In approving a purchaser as suitable, the CMA’s starting position is that it must be confident without undertaking a detailed investigation that the proposed purchaser will restore pre-merger levels of competition. The CMA therefore seeks to ensure that:

(a) The acquisition by the proposed purchaser must remedy, mitigate or prevent the SLC concerned or any adverse effect resulting from it, achieving as comprehensive a solution as is reasonable and practicable.

(b) The purchaser should be independent from and have no significant connection to the merger parties that may compromise the purchaser’s incentives to compete with the merged entity (eg an equity interest, common significant shareholders, shared directors, reciprocal trading relationships or continuing financial assistance). It may also be appropriate to consider links between the purchaser and other market players.

- (c) The purchaser must have sufficient capability, including access to appropriate financial resources, expertise (including managerial, operational and technical capability) and assets, to enable the divested business to be an effective competitor in the market. This access should be sufficient to enable the divestiture package to continue to develop as an effective competitor. For example, a highly-leveraged acquisition of the divestiture package which left little scope for competitive levels of capital expenditure or product development is unlikely to satisfy this criterion. The proposed purchaser will be expected to obtain in advance all necessary approvals, licences and consents from any regulatory or other authority.
- (d) The CMA will wish to satisfy itself that the purchaser is committed to, and has an appropriate business plan and objectives for competing in, the relevant market(s), and that the purchaser has the incentive and intention to maintain and operate the relevant business as part of a viable and active business in competition with the Merged Entity and other competitors in the relevant market.
- (e) Divestiture to the purchaser should not create a realistic prospect of further competition or regulatory concerns.⁴

17. Subject to the responses to this consultation, and having regard in particular to the criteria set out in paragraph 16 above, the CMA currently considers RussMedia to be a suitable purchaser of Shpock for the following reasons:

- (a) The acquisition of Shpock by RussMedia would remedy, mitigate or prevent the SLC concerned and any adverse effect resulting from it, achieving as comprehensive a solution as is reasonable and practicable, as it would allow RussMedia to compete effectively in the UK and would create another source of competition for the Parties in the UK.
- (b) The evidence available to the CMA indicates that RussMedia is independent and does not appear to have any significant connection to Adevinta or eBay that may compromise its incentives to compete with the Parties if it were to acquire Shpock.
- (c) The evidence available to the CMA indicates that RussMedia is capable of, and has access to appropriate financial resources, to acquire and operate Shpock as an effective competitor. RussMedia also has access to appropriate managerial, operational and technical expertise to enable Shpock to be an effective competitor in the UK market.

⁴ [Merger remedies \(CMA87\)](#), December 2018, Chapter 5, paragraphs 5.20 to 5.27.

- (d) RussMedia has discussed its plans for Shpock with the CMA and has also provided the CMA with financial forecasts for the two years following the acquisition of Shpock. The evidence available to the CMA indicates that RussMedia is committed to Shpock, has an appropriate plan and objectives for competing in the UK market and has the incentive and intention to maintain and operate Shpock as part of a viable and active business in competition with the Parties and other competitors in the UK market.
- (e) The evidence available to the CMA indicates that the acquisition of Shpock by RussMedia should not create a realistic prospect of further competition or regulatory concerns.
- (f) Therefore, subject to responses to this consultation, the CMA currently considers RussMedia to be a suitable purchaser of Shpock.

Proposed decision and next steps

18. For the reasons set out above, the CMA currently considers that the Proposed Undertakings, including the divestment of Gumtree UK and the purchase of Shpock by RussMedia are, in the circumstances of this case, appropriate to remedy, mitigate or prevent the competition concerns identified in the SLC Decision and form as comprehensive a solution to these concerns as is reasonable and practicable.
19. The CMA therefore gives notice that it proposes to accept the Proposed Undertakings in lieu of a reference of the Merger for a phase 2 investigation. The text of the Proposed Undertakings is available on the CMA webpage.⁵
20. Before reaching a decision as to whether to accept the Proposed Undertakings, the CMA invites interested parties to make their views known to it. The CMA will have regard to any representations made in response to this consultation and may make modifications to the Proposed Undertakings as a result. If the CMA considers that any representation necessitates any material change to the Proposed Undertakings, the CMA will give notice of the proposed modifications and publish a further consultation.⁶
21. Representations should be made in by email only, referring the consultation in the email title.

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⁵ See [Adevinta / eBay merger inquiry - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

⁶ Under paragraph 2(4) of Schedule 10 to the Act.

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Deadline for comments: 11 May 2021