

REMITTAL RELATING TO THE COMPLETED ACQUISITION BY JD SPORTS FASHION PLC OF FOOTASYLUM PLC

Notice of provisional report on remittal

1. On 6 May 2020, the CMA announced its decision that the completed acquisition by JD Sports Fashion plc (**JD Sports**) of Footasylum plc¹ (**Footasylum**) (the **Merger**) had resulted or may be expected to result, in a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in certain markets and published its findings in the Phase 2 report (**Phase 2 Final Report**).
2. On 17 June 2020, JD Sports submitted a Notice of Application to challenge certain of the CMA's findings in the Phase 2 Final Report to the Competition Appeal Tribunal (**Tribunal**).
3. On 13 November 2020, the Tribunal dismissed JD Sports' appeal under certain grounds, but upheld other grounds to the extent that they concerned the CMA's assessment of the likely effects of COVID-19 and quashed the Phase 2 Final Report in so far as its conclusions are based on that assessment. The Tribunal considered that this finding required further examination of the Phase 2 Final Report as a whole and remitted the case to the CMA on that basis. Following the Court of Appeal's decision not to grant the CMA's application for leave to appeal the Tribunal's judgment, the CMA commenced its reconsideration of the Merger in light of the Tribunal's judgment (the **Remittal**).

Provisional report

4. A group of CMA panel members was appointed on 26 March 2021 to consider the Remittal (the **Remittal Group**).
5. The Remittal Group has provisionally decided that, in relation to the Remittal and the statutory questions in section 35 of the Enterprise Act 2002:

(a) a relevant merger situation has been created; and

¹ On 19 September 2019, Footasylum plc became Footasylum Limited. References to Footasylum elsewhere in this decision should be interpreted to mean Footasylum Limited.

- (b) the creation of that situation has resulted, or may be expected to result, in an SLC in:
- (i) the retail supply of sports-inspired casual footwear (in-store and online) in the UK; and
 - (ii) the retail supply of sports-inspired casual apparel (in-store and online) in the UK.
6. The Remittal Group's reasons are set out in full in the provisional report, which is attached to this notice, and are summarised in the summary of the provisional report (see note below).
7. As the Remittal Group has provisionally found that the Merger has resulted, or may be expected to result, in an SLC, the Remittal Group has also made a provisional decision on the remedies that would be effective and proportionate to address the SLC. This is the subject of the Remedies Paper published alongside the provisional report.

The next steps

8. Anyone wishing to comment on the provisional report and/or Remedies Paper is now invited to provide the Remittal Group with their reasons in writing as to why this provisional report should not become final (or, as the case may be, should be varied).
9. These reasons should be received by the Project Manager by email (JDSports.Footasylum@cma.gov.uk) by no later than **17:00hrs BST on**
- **9 September 2021 for the Remedies Paper**
 - **16 September 2021 for the provisional report**
10. The Remittal Group will have regard to any such reasons in making its final decisions on the statutory questions and any consequential actions. However, the Remittal Group shall not be obliged to take into account reasons which are provided after the deadline specified in paragraph [9] above.

Kip Meek
Remittal Group Chair
2 September 2021

Note: A copy of this notice, the summary of the provisional report, the provisional report and the Remedies Paper will be placed on the CMA [case page](#) on **2 September 2021** or shortly thereafter. The published version of the provisional report and Remedies Paper will not contain any information which the Remittal

Group considers should be excluded from the report, having regard to the three considerations set out in [section 244](#) of the Act. These omissions are indicated by [✂].

Comments should be made by email to JDSports.Footasylum@cma.gov.uk