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Mobile Ecosystems Market Study Interim Report: Observations of Basecamp

I. Introduction

Basecamp is a software-as-a-service ("**SaaS**") company that offers a project collaboration tool called Basecamp and an email service called HEY. Both services, along with a range of legacy services of the same character, are available on a worldwide basis, including in the UK, and can be accessed on all platforms, i.e., on web, desktop and mobile.

Basecamp appreciates the opportunity to submit observations to the mobile ecosystems market study interim report ("**Interim Report**"), published by the Competition and Markets Authority ("**CMA**") in December 2021. We congratulate the CMA for undertaking such a thorough examination of mobile ecosystems and for producing a comprehensive and evidence-based report which shows a deep understanding of mobile ecosystems and the competitive environment *between* and *within* such ecosystems.

We are in broad agreement with the CMA's findings, which confirm that Apple and Google, by controlling (the various layers of) their respective ecosystems, act as a gateway between businesses and consumers. This affords them the power to unilaterally impose on app developers which rely on them to operate their businesses any terms they deem fit, no matter how unfair or onerous they may be. We also agree with the preliminary conclusion that Apple and Google would meet the proposed criteria for designation as firms with "Strategic Market Status" for each of the main activities within their respective mobile ecosystems.

In this submission, we briefly provide our views on the Interim Report's findings that are particularly relevant for our business (**Part II**), before turning to the remedies considered by the CMA to address competitive harms identified during the market study (**Part III**). **Part IV**, finally, concludes.

II. Main findings of the Interim Report

Basecamp agrees with the Interim Report's description of mobile ecosystems and the competitive environment that characterizes them.[1]

Competition in the supply of mobile devices and operating systems. The CMA is correct to find that Apple and Google have an "effective duopoly" in the provision of mobile operating systems, which

1 See Competition and Markets Authority, "Mobile ecosystems – Market study interim report" ("Interim Report"), 14 December 2021, Chapter 2.

translates to substantial and entrenched market power over app developers.[2] We also agree with the CMA's analysis and finding that competition between Apple's and Google's ecosystems is limited.

Competition in the distribution of native apps. The CMA provides an accurate description of the (lack of) competition in the distribution of native apps *within* and *between* the iOS and the Android ecosystems, with Apple and Google having substantial and entrenched market power over app distribution in their respective ecosystems.[3] The CMA correctly finds that there is very limited competition *between* Apple's and Google's ecosystems, app developers having to be present on both the App Store and the Play Store to succeed. The CMA also correctly finds that *within* its ecosystem, Apple does not face any competitive constraint (as pre-installation, sideloading or alternative app stores are either prohibited or unavailable), while Google only faces very limited constraints (since alternative app stores and sideloading are not widely used by users or app developers). Finally, the CMA is right to point out that web-based alternatives do not constitute substitutes to native apps and that alternative devices (e.g., personal computers, gaming consoles and smart TVs) pose limited competitive constraints on the Play Store and the App Store.

Basecamp also agrees with the CMA's analysis and finding that Apple and Google have adopted conducts in relation to the operation of their app stores that are consistent with them having market power in app distribution, such as the imposition of the mandatory use of their in-app payment systems (In-App Purchase ("**IAP**") and Google Play's Billing System ("**GPB**"), respectively) by app developers whose apps offer "*digital goods or* services" and the commissions charged for in-app purchases made through IAP and GPB. The commissions charged by Apple and Google neither reflect the cost of running the app store nor the value of services offered to app developers; they simply are a clear manifestation of Apple's and Google's power over app developers. In fact, as noted by Judge Gonzalez Rogers in the *Epic vs Apple* litigation, the rate of 30% was a historic gamble that allowed Apple to reap supra-competitive operating margins.[4]

The role of Apple and Google in competition between app developers. Basecamp supports the CMA's findings in relation to Apple's and Google's ability to use their market power over app distribution and their respective mobile operating systems to "set the rules of the game" in competition between apps.[5] We are particularly content that the CMA has looked into the app review processes put in place by Apple and Google, which allow them to have a "live or die" say over app developers wishing to reach UK users. Basecamp, as many other app developers, has faced considerable problems because of Apple's erratic App Review Process, during which compliance with Apple's unclear, unexpectedly

2 Id., Chapter 3.

3 Id., Chapter 4.

4 See *Epic Games, Inc, v. Apple Inc.,* Rule 52 Order after Trial on the Merits, Case No. 4:20-cv-05640-YGR, page 92. See also page 35, where the lack of relationship between the commission and the cost of running the App Store is explained. See also page 9, which lays out why the commission bears no relationship with the value app developers gets from the app store.

5 Interim Report, Chapter 6.

modified and inconsistently interpreted App Store Review Guidelines is assessed. The most serious example concerns the launch of our email service HEY.com in the summer of 2020. Apple initially approved the iOS app for this service, which became available on the App Store in the beginning of June 2020. A few days later, however, Apple changed its mind and rejected HEY app's update (which included some bug fixes). Apple suddenly took issue with the fact that users could not sign up inside the app, being required to first purchase a subscription on the web and then access their account inside the app (i.e., operating as so-called "reader" apps). Apple required us to adopt IAP and pay the 30% commission or else be removed from the App Store. What was surprising was that we were following all written and unwritten rules that we thought applied (including full compliance with Apple's anti-steering provision) based on our experience with the Basecamp iOS app which had been available on the App Store for almost a decade and operates in this manner, as well as our observation of how other similar apps operated.[6]

Only following the public feud between our Chief Technology Officer and co-founder David Heinemeier Hansson and Apple – which attracted overwhelming attention from the media and other app developers – did Apple eventually agree not to remove the HEY app from the App Store *but* only if we offered a free version of the app that would "work" immediately after its download. Obviously, this cannot work for apps that are subscription-based. Consequently, we have been forced to put in place a system whereby a free app is offered for a two-week period (during which users have a temporary email address), after which the service stops, and the user has to reach out to us to have the service continued. This is because, due to Apple's anti-steering rules, we cannot inform users about the possibility to purchase subscriptions on the web. Thus, Apple has introduced considerable friction, harming not only our business but also our users.

What is even more striking is that after the experience we had in the summer of 2020, Apple introduced, in September 2020, an exemption from the obligation to use IAP for "free stand-alone apps" (that is "*free apps acting as a stand-alone companion to a paid web based tool (eg. VOIP, Cloud Storage, Email Services, Web Hosting*)," provided that "*there is no purchasing inside the app, or calls to action for purchase outside the app*." Based on this exemption, we submitted an update to our free HEY iOS app to allow customers to directly sign into their accounts without the need to go through the two-week preamble with a temporary email address. That companion to the paid web application did not include any means of purchasing within the iOS app or instructions to purchase on the web. After five days, Apple rejected the update saying that "*apps that serve as companions to paid web based tools must include sufficient free content and features to be considered a stand-alone app*," without explaining what Apple would deem sufficient.

We are thus in full agreement with the CMA's description of Apple's App Review Process as a process that is carried out in an unprincipled manner, is not independent and allows Apple unrestricted freedom to approve or reject apps. We find it utterly problematic that Apple "*gives itself wide*

6 Basecamp at the time documented its experience with Apple's App Review Process in tweets and press interviews: https://www.hey.com/apple/.

discretion to reject apps for new reasons not covered by the existing rules – as 'new apps presenting new questions may result in new rules at any time'."[7]

We are also satisfied that the CMA has carried out a thorough analysis of the obligation imposed by Apple and Google on app developers whose apps offer "*digital goods or services*" to use their proprietary payment systems for in-app purchases, which debunks Apple's and Google's "justifications" for the imposition of these obligations, and which explains in detail the harm to competition and consumers that arises from these rules. The CMA has rightfully acknowledged that the imposition of the "one-size-fits-all" IAP and GPB, *inter alia*, (i) deprives app developers from the possibility to "*choose, often bespoke payment solutions that better meet their needs and those of their users*" and restricts the incentives of payment service providers to innovate in payment solutions specifically designed for in-app payments;[8] (ii) disintermediates app developers from their users, reducing their control over pricing and refunds and depriving them of valuable user data;[9] and (iii) raises switching costs for users due to billing issues.[10]

Finally, Basecamp supports the CMA's consideration that the anti-steering rules imposed by Apple and Google restrict users' ability to make informed choices about alternative purchasing channels. The CMA has stated that it will "*continue to assess whether these anti-steering rules are necessary to support Apple's and Google's incentives to make investments in their app stores and if these incentives would remain if the anti-steering rules did not apply to app developers.*"[11] Basecamp would like to note that any claims made by Apple or Google in this regard should be dismissed. Such statements completely disregard the immense value app developers bring to Apple's and Google's ecosystems, including their app stores.

III. Potential interventions

Basecamp generally supports the potential interventions considered in Chapter 7 of the Interim Report. In this part, we provide comments on interventions proposed under remedy areas 1, 2 and 4. Finally, we explain that it is necessary that the regulator adopts strict anti-circumvention measures to ensure that any interventions adopted are effective.

Remedy area 1: interventions relating to competition in the supply of mobile devices and operating systems

Under this heading, the CMA considers remedies that would foster competition *between* Apple's and Google's ecosystems, and in particular remedies that would (i) facilitate switching between different

7 Interim Report, paragraph 6.57.

8 Id., paragraph 6.194.

9 Id., paragraph 6.202.

10 Id., paragraph 6.215.

11 Id., paragraph 6.221.

operating systems and (ii) facilitate entry of potential rivals.[12] While Basecamp generally supports these remedies, we believe that their practical effect may be limited. Thus, interventions under remedy area 1 should be *complemented by* interventions aimed at fostering competition *within* each ecosystem but should not replace them.

Remedy area 2: interventions relating to competition in the distribution of native apps

Under this remedy area, the CMA proposes interventions that would promote alternative app distribution methods in both the iOS and the Android ecosystems.[13] With regards to Apple, the CMA considers requiring it to (i) allow alternative app stores (either made available through sideloading from the web or allowed on the App Store), (ii) allow the sideloading of native apps, and (iii) increase support for web apps. With regards to Google, the CMA considers requiring it to (i) break the link between the Play Store and payments made under Google's agreements, (ii) allow third-party app stores on the Play Store, and (iii) make sideloading easier on Android devices.

Interventions aimed at reducing the control of Apple and Google over app distribution can significantly benefit app developers and consumers. However, the example of Android shows that it is very hard for alternative app stores to succeed even if allowed on an operating system, because of the network effects on which their success relies. This may, however, not be an issue for certain specialized / niche app stores focusing on apps with a strong community of users. Sideloading, on the other hand, has more prospects to succeed, but its success as a distribution channel is dependent on the absence of any frictions or restrictions introduced by Apple or Google. Currently, sideloading on Android is a very onerous process, with users having to go through various steps and lower Android's security settings.[14] Even Google recognizes this, with a Google manager having apparently characterized sideloading an "awful experience" and "frankly abysmal".[15] This is a large impediment and means that this path alone – at least if implemented in a way similar to what Google currently allows – is not a competitive option.

What could be a competitive option – if not subject to extortionary conditions imposed by Apple – is unlisted apps. These are apps not discoverable in the App Store that only users with a direct link can access. Apple has just added this option, which is currently limited to certain types of apps that get Apple's approval – meaning that they need to comply with Apple's regulations.[16] What the example of unlisted apps shows is that Apple could easily allow developers to distribute their software directly through such links without requiring them to be displayed in the App Store. In other words, these links

12 Id., paragraphs 7.33 et seq.

13 Id., paragraphs 7.48 et seq.

14 Id., paragraphs 4.106 et seq.

15 See Ben Schoon, Google apparently called sideloading Fortnite on Android 'abysmal' in talks w/ Epic Games", *9to5google*, 6 August 2021, available at https://9to5google.com/2021/08/06/google-epic-games-sideloading-quote-lawsuit/.

16 See Emma Roth, "Apple adds unlisted apps to its App Store", *The Verge*, 30 January 2022, available at https://www.theverge.com/2022/1/30/22909367/apple-unlisted-apps-app-store.

could be used solely for installation (and not for promotion of apps in the App Store), similar to how we currently link to our macOS and Windows apps directly from our website.

Basecamp, therefore, agrees with the CMA that allowing alternative app stores and sideloading are unlikely to be sufficient, on their own, to foster effective competition, and would propose to consider these interventions *alongside* interventions falling under remedy area 4.

As to interventions that would remove limitations imposed by Apple on web apps, we would like to note that, while such interventions would be welcome, they would likely not lead to a situation where web apps could replace native apps thus increasing the competitive constraint on Apple and Google. First, users have been trained to mainly use apps on their mobile devices and changing this habit will not be an easy task. Second, even if restrictions were lifted, web apps would still lag behind native apps, as there are substantial fit and finish differences (i.e., platform-specific user interface elements, like navigation bars, slide over menus, and all the other parts of what makes a native application feel "native") between native mobile and mobile web. This is not something that can be solved by mandating the removal of restrictions.

Remedy area 4: interventions relating to the role of Apple and Google in competition between app developers

Under this heading, the CMA is considering (i) interventions to address Apple's and Google's ability to harm competition through the operation of their app stores, (ii) interventions to address concerns related to in-app payment systems, and (iii) separation remedies.[17] Among these interventions are requirements to: (i) implement a fair and transparent app review process, (ii) introduce choice as to in-app payment solutions, (iii) allow for greater promotion of off-app payment options, and (iv) implement measures that would restrict the potential for self-preferencing.

While these types of interventions would be welcome, we firmly believe that stronger remedies should be adopted if the anticompetitive harms arising from Apple's and Google's entrenched market power in app distribution were to be effectively addressed. In particular, Apple and Google should be required to adopt common carrier type regulations, being prohibited from offering special considerations or concessions to certain app categories. All developers should be subject to the same conditions / rules for the use of the platform – be that in the form of a developer fee that would be the same for all apps (like the current annual $99 fee Apple charges developers participating in the Apple Developer Program) or in the form of fees grounded in the costs actually incurred by the app store providers in serving app developers whose apps are being hosted on the platforms (that is, according to the amount of Apple or Google resources used on each app developer, e.g., in terms of bandwidth usage or reviews). Ultimately, it cannot be that certain app developers that use an extreme amount of resources from app stores are served at a cost of $99 per year (i.e., the standard developer

17 Interim Report, paragraph 7.77 et seq.

fee) while others are asked to hand over potentially millions to Apple and Google (in the form of a commission on transactions or a "service fee").

We now comment on potential interventions considered by the CMA under remedy area 4. We first address requirements for a fair and transparent app review process, which we consider indispensable, alongside the common carrier type regulations addressed above, in restoring and fostering competition in mobile ecosystems. We then comment on interventions that would introduce choice as to in-app payment options and that would allow for greater promotion of off-app payment options.

1. *Requirements for a fair and transparent app review process*

The CMA is considering interventions that would ensure that app review processes are "***clear and transparent, but also fairly designed and implemented***."[18] Such interventions would encompass requirements for Apple and Google to do more to:

> "(i) ensure a consistent application of their relevant app developer guidelines; (ii) ensure a sufficient level of transparency over the reasons for any rejection of an app, or any requirement to make changes to an app as a condition of approval; and (iii) ensure that they deal with developers and device manufacturers on fair and reasonable terms, and do not unduly discriminate between or apply different standards to app developers."[19]

Basecamp believes that such interventions are of primary importance in constraining the unfettered control Apple and Google have over app developers through the app review process. A fair and transparent app review process is a prerequisite for a competitive market: if Apple and Google can unexpectedly come up with new rules and requirements, and erratically reject apps or updates, app developers cannot efficiently conduct their business and consumers' choice and access to innovation are hampered.

To ensure that Apple and Google will comply with any interventions requiring them to have a clear, transparent and fair app review process in place, we believe that it is necessary for the regulator to prescribe the standards such an app review process should meet. We consider that, at minimum, Apple and Google should be required to:

- **Lay out in a detailed and clear manner the rules with which app developers should comply in order for their apps to be approved**. There should be no space for Apple and Google to make decisions on the fly about what is permitted and what not, and to base their approval or rejection of apps or updates on unwritten rules. An approach towards app review that is based on the premise that "*apps [will be rejected] for any content or behavior that [Apple] believe[s] is over the line. What line, you ask? Well, as a Supreme Court Justice once said, "I'll*

18 Id., paragraph 7.84.

19 Id., paragraph 7.85.

know it when I see it","[20] should be unacceptable. Only in this way can the app review process be transparent. It goes without saying that **any such rules should be objective, reasonable and non-discriminatory.**

- **Ensure that app developers whose apps are being reviewed by Apple or Google can communicate with the employees carrying out the review and be kept on the loop about the process.**

- **Refrain from escalating conversations with app developers to phone calls with individuals who can only be identified on a first-name basis and allow any correspondence to take place in writing.** Phone calls leave no paper trail of statements made by Apple's or Google's employees, meaning that (i) app developers cannot refer back to earlier statements made by reviewers, asking for them to be binding on any subsequent decisions, and (ii) there is no hard evidence on which app developers could rely to show that the conduct of the app review process is problematic. Such a requirement would go a long way towards holding Apple and Google accountable for how they implement the app review process and would potentially incentivize them to follow a more principled and objective approach.

- **Make all correspondence that has taken place during the app review process and any decisions taken accessible to app developers for the duration of their developer agreement.** The CMA has correctly identified in the interim report that *"[t]he effectiveness of the appeal process may also be hampered by the lack of documentation provided by Apple in the app review process*," referring to Basecamp's and eBay's experiences on this issue.[21] Apple has confirmed this practice, stating that "*after a new version of an app is approved, previous correspondence is removed as 'all issues have been resolved', although […] developers can retain copies of correspondence by taking screenshots.*"[22]

2. *Allowing greater choice of in-app payment options*

The CMA considers that a "***greater choice of in-app payment options***" should be allowed, enabling app developers to "*choose their own payment service provider and have a direct selling relationship with the user, rather than require them to exclusively use Apple's and Google's own payment system.*"[23] Basecamp fully supports this intervention. We would, however, like to point out that it is important that app developers are not only allowed to use their own payment processor but also that they are **not compelled to use Apple's or Google's in-app payment systems alongside a third-party**

20 App Store Review Guidelines, *Apple Developer*, available at https://developer.apple.com/app-store/review/guidelines/#performance, Introduction.

21 Interim Report, paragraph 6.88.

22 Id., paragraph 6.89.

23 Id., paragraph 7.99.

payment processor. If Apple and Google could mandate the use of their payment processors (even if this was not on an "exclusive" basis), free choice would be limited.

That is not to say, however, that if certain app developers value Apple's and Google's services, they would not be able to use IAP or GPB (either exclusively or alongside other payment processors). What Basecamp considers necessary is having a truly free choice – in other words, a real choice between using third-party payment service providers, using a payment system developed in house or using IAP or GPB – or any combination of these options. In this way, flexibility would be introduced to the benefit of users, competition between payment service providers would be fostered, and innovation would be encouraged in terms of options or features related to in-app payments.

The CMA states that "*[f]ollowing this type of intervention, Apple and Google could seek alternative ways to collect a commission for use of their app stores.*"[24] This statement is correct: Apple and Google will most likely seek alternative ways to introduce charges if the CMA adopts such an intervention. This is what they have both opted for in response to the law in South Korea prohibiting them from mandating the use of their in-app payment systems: Google and Apple will charge a "service fee" to app developers whose apps sell "*digital goods or services*".[25] This is also what Apple has stated it will do following the decision of the Netherlands Authority for Consumers and Markets ("**ACM**"), which mandates it to refrain from requiring dating-app developers in the Dutch storefront to use IAP.[26] Doing so, however, could neuter an obligation to allow the use of alternative in-app payment systems.

This means that Apple and Google should not be allowed to move the "tax" they currently charge for IAP or GPB transactions over to the platform, in what amounts to a shell game of naming. As explained above, it is imperative that all developers are subject to the same conditions / rules for the use the platform.

3. Allowing for promotion of off-app payment options

The CMA also considers interventions that would lead to a ***greater promotion of off-app payment options***," which would "*require Apple and Google to allow developers to refer users within an app to alternative ways to pay content and subscriptions outside of the app, for example allowing them to provide a link to where prices are lower on a website.*"[27]

Basecamp seconds that intervention, which we believe should comprise the following two elements:

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24 Id., paragraph 701.

25 See Id., paragraph 6.170, where the Interim Report discusses Google's implementation plan. While the details of Apple's implementation plan are not yet clear, the Korean Regulator said that Apple plans to allow alternative payment systems for a lower service fee – which is similar to what Google has opted for.

26 See "Distributing dating apps in the Netherlands", *Apple Developer*, available at https://developer.apple.com/support/storekit-external-entitlement/.

27 Interim Report, paragraph 7.102.

- All app developers should have the **right to freely communicate with their users for any matter**, including the promotion of offers, the provision of information about pricing or subscriptions or the provision of any other information they wish to give to their users. The current anti-steering rules imposed by Apple do not even allow us to inform our iOS app users that there is a web service associated with the app they are using, meaning that they may not know that they can access our service on other platforms (e.g., their computer). This needs to change.

- All app developers should have the **right to include links within their apps that would direct users to the web** either to complete a payment or for any other reason they consider desirable.

4. Measures which restrict the potential for self-preferencing

The CMA is also considering measures "*which restrict the potential for self-preferencing of Apple's and Google's own apps through requiring the payment of commissions from third-party apps active in sectors where Apple and Google also have their own first-party apps*."[28] These would, for example, include measures that would allow apps to disable IAP and GPB, so that any payments would have to be made off-app, as well as measures that would relax the anti-steering rules in relation to those apps where they compete downstream, allowing those developers to steer customers to alternative off-app payment options where the developers are not obliged to pay a commission to Apple and Google.

Basecamp agrees with the CMA that it is necessary to level the playing field between Apple's and Google's own apps and rival third-party apps. However, as the CMA correctly points out, "*this alternative is likely to only partially address concerns that downstream competition is distorted, as rival apps may still face disadvantages from the 'frictions' caused by users needing to make payments outside of the app.*"[29] Being able to disable IAP or GPB and only allow payments on the web would not make a great difference in practice if users were not aware of such off-app payment possibilities due to the anti-steering rules. If the anti-steering rules were also prohibited, meaning that app developers could direct users to the web to make purchases, this would constitute an improvement compared to the current situation whereby apps that are allowed to disable IAP are *not* allowed to inform users about the possibility to purchase subscriptions elsewhere, leaving it entirely up to them to figure it out. However, as our experience with Apple has shown in relation to our HEY iOS app, Apple can be "creative" in introducing frictions in any process, harming app developers and their users. Thus, additional frictions could be introduced if Apple were required to allow its downstream competitors to disable IAP and inform users about out-of-app payment possibilities.

Overall, in order to ensure that third-party apps and Apple's and Google's competing apps are truly on equal footing, it is necessary that app developers have a real choice, being allowed to (i) disable

28 Id., paragraph 7.104.

29 Id., paragraph 7.105.

the app store's payment system, (ii) offer any in-app payment solution they prefer, and (iii) communicate freely with end users and offer out-of-app purchasing possibilities (including by providing links inside the app which direct users to an external website).

Ensuring the effectiveness of any adopted interventions: the need for strict anti-circumvention measures

Interventions will only have an impact in practice if there is no space for Apple and Google to avoid effective compliance. If Apple and Google circumvent any interventions by adopting alternative rules that are equally anticompetitive and/or unfair or by introducing frictions to discourage app developers, e.g., from using alternative payment systems, from communicating with their users or from linking to the web for payments, any interventions adopted would come to naught. Given our previous experience with Apple – which, as explained above, has led us to adopt a suboptimal model for our HEY iOS app to be allowed on the App Store – we are convinced that Apple will seek to introduce similar frictions if afforded leeway in complying with remedies imposed.

Apple's and Google's response to the developments in South Korea and (for Apple) in the Netherlands further attest to the fact that these two companies are likely to attempt to circumvent any rules aimed at regulating their anticompetitive behaviour. Google's response to the South Korean law was to continue charging app developers whose apps offer "digital goods or services", but to move the charge away from GPB and call it a "service fee". Apple's response was even worse. For several months, Apple refused to comply with the amended Telecommunications Business Act, arguing that the system it has in place, whereby app developers offering "digital goods or services" have to use IAP, is in compliance with the law requiring Apple to not force the use of its in-app payment system. Apple ultimately submitted an implementation plan to the Korean regulator almost four months after the law's entry into force. Although the details of the plan are not yet publicly available, Apple seems to have opted for an approach similar to Google's – whereby it will continue charging certain app developers a "service fee". In the Netherlands, where, following the ACM's order, Apple has to allow dating-app developers to include an in-app link directing users to the developer's website to complete a purchase or use a third-party in-app payment system, Apple has also stated that it will still charge a commission on transactions.[30]

Thus, it is of utmost importance that strict anti-circumvention measures are put in place to prevent Apple and Google from avoiding full and effective compliance with any interventions adopted.

IV. Conclusion

Basecamp applauds the CMA for its excellent work in the first phase of the mobile ecosystems market study and for the comprehensive Interim Report, whose findings we support. Given the importance of addressing the harmful conducts adopted by Apple and Google, we encourage the CMA to continue

30 See "Distributing dating apps in the Netherlands", *Apple Developer*, available at https://developer.apple.com/support/storekit-external-entitlement/.

its high-quality work in the second phase of the market study. At the same time, we encourage it to pursue its antitrust investigation into the Apple App Store,[31] which could deliver, in a timely manner, remedies to the benefit of competition and consumers in the UK.

While we agree that the *ex ante* pro-competition regime for digital markets to be enforced by the Digital Markets Unit ("**DMU**") will offer a framework that will foster competition in mobile ecosystems, we are concerned that relying on this regime may not provide a much needed *timely* solution. This is because the legislation that would give a statutory basis to the DMU has yet to be tabled, and it is not clear when this will happen. Thus, we encourage the CMA to re-consider its decision not to make a market investigation reference if legislation has not yet been tabled towards the completion of the market study.

We remain at the CMA's disposal for any additional information that may be required to inform its final findings.

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31 Competition and Markets Authority, "Investigation into Apple AppStore", 4 March 2021, available at https://www.gov.uk/cma-cases/investigation-into-apple-appstore.