

**COMPLETED ACQUISITION BY META PLATFORMS, INC.
(FORMERLY FACEBOOK, INC.) OF GIPHY, INC.**

**Interim Order made by the
Competition and Markets Authority pursuant to
section 81 of the Enterprise Act 2002**

Whereas:

- A. On 15 May 2020, Facebook, Inc. through its subsidiary, Tabby Acquisition Sub, Inc., (together '**Facebook**') completed its acquisition of Giphy, Inc. ('**Giphy**') (the '**Merger**').
- B. On 9 June 2020, the Competition and Markets Authority (the '**CMA**') made an Initial Enforcement Order (the '**IEO**') pursuant to section 72 of the Enterprise Act 2002 (the '**Act**') requiring Facebook and Giphy to remain independent and to prevent pre-emptive action. On 29 June 2021, a variation order was made to the IEO.
- C. On 1 April 2021, the CMA, in exercise of its duty under section 22(1) of the Act, referred the Merger, for further investigation and report (the '**Reference**') by a group of CMA panel members.
- D. On 28 October 2021, Facebook changed its corporate name to Meta Platforms, Inc. ('**Meta**') pursuant to an amended and restated certificate of incorporation filed with the Delaware Secretary of State. The only change to the company's Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws was the change of the company's corporate name from Facebook, Inc. to Meta Platforms, Inc.
- E. On 30 November 2021, the CMA published a final report pursuant to section 38 of the Act (the '**Final Report**') which concluded that:
 - a) the Merger had resulted in the creation of a relevant merger situation;
 - b) the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition (the '**SLC**') in the following respects:

- (i) in the supply of display advertising in the UK due to horizontal unilateral effects arising from a loss of dynamic competition; and
- (ii) in the supply of social media services worldwide due to vertical effects resulting from input foreclosure;

c) the CMA should take action to remedy the SLCs identified and any adverse effects likely to arise; and

d) that Giphy be divested (the '**Remedy**').

F. On 20 December 2021, Meta advised the CMA that it did not intend to offer undertakings.

G. On 23 December 2021, Meta made an application to the Competition Appeal Tribunal (the '**CAT**') pursuant to section 120 of the Act for a review of the CMA's decision in the Final Report.

H. On 29 March 2022, the CMA made a Final Order for the purpose of remedying, mitigating or preventing the SLCs identified in the Final Report and any adverse effects which have resulted from, or may be expected to result from it (the '**Final Order**'). Pursuant to section 72(6)(a)(ii) of the Act, the IEO ceased to be in force on the date on which the Final Order was made.

I. On 14 June 2022, the CAT handed down its judgment setting out its conclusion on each of the grounds of review of the CMA's decision in the Final Report (the '**Judgment**'). The CAT issued an order on 15 July 2022 (the '**CAT Order**') remitting the Reference to the CMA for reconsideration in the light of the Judgment.

J. The CMA will reconsider the Reference in light of the Judgment, to determine whether the Merger has resulted, or may be expected to result, in an SLC, and if so, what action should be taken to remedy, mitigate or prevent the SLC or any adverse effect resulting from the SLC. =

K. The CMA wishes to ensure that no action is taken pending final determination of the Reference which might prejudice the Reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the Reference.

Now, for the purpose of preventing pre-emptive action in accordance with section 81 of the Act, the CMA makes the following order ('**Order**') addressed to each of Meta and Giphy.

Commencement, application and scope

1. This Order commences on the Commencement Date. The Final Order is revoked on the commencement of this Order pursuant to section 84(3)(b) of the Act.
2. This Order applies to Meta and Giphy.
3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige Meta or Giphy to reverse any act or omission, in each case to the extent that it occurred, or was completed, prior to the Commencement Date.
4. The directions and derogations issued in relation to, or pursuant to, the IEO and the Final Order shall remain applicable in relation to this Order unless amended, cancelled or revoked by the CMA.

Management of the Meta business and Giphy business until determination of the Reference

5. Except with the prior written consent of the CMA (which, for the avoidance of doubt, includes the derogations and consents previously granted by the CMA under the IEO and Final Order, unless amended or revoked by the CMA at any time), Meta and Giphy shall not, during the Specified Period, take any action which might prejudice the Reference or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on the Reference, including any action which might:
 - (i) lead to the integration of the Giphy Business with the Meta Business;
 - (ii) transfer the ownership or control of the Giphy Business or any of its subsidiaries except in compliance with this Order; or
 - (iii) otherwise impair the ability of the Giphy Business and the Meta Business to compete independently in any of the markets affected by the Merger.
6. Further and without prejudice to the generality of paragraph 5 and subject to paragraph 3, Meta and Giphy shall at all times during the Specified Period procure that, except with the prior written consent of the CMA:
 - (a) the Giphy business is carried on separately from the Meta business and the Giphy business's separate sales or brand identity is maintained;
 - (b) the Giphy business and the Meta business are maintained as going concerns and sufficient resources are made available for the development

of the Giphy business and the Meta business, on the basis of their respective pre-Merger business plans;

- (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within the Giphy business or the Meta business;
- (d) the nature, description, range and quality of goods and/or services supplied in the UK by each of the Giphy business and the Meta business are maintained and preserved;
- (e) except in the ordinary course of business for the separate operation of the Giphy business and the Meta business:
 - (i) all of the assets of the Giphy business and the Meta business are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the Giphy business or the Meta business are disposed of; and
 - (iii) no interest in the assets of the Giphy business or the Meta business is created or disposed of;
- (f) there is no integration of the information technology of the Giphy business and the Meta business, and the software and hardware platforms of the Giphy business shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the Giphy business and the Meta business shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Giphy business will be carried out by the Giphy business alone and for the avoidance of doubt the Meta business will not negotiate on behalf of the Giphy business (and vice versa) or enter into any joint agreements with the Giphy business (and vice versa);
- (h) all existing contracts of the Giphy business and the Meta business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to Key Staff of the Giphy business or the Meta business;
- (j) no Key Staff are transferred between the Giphy business and the Meta business;

- (k) all reasonable steps are taken to encourage all Key Staff of the Giphy business and the Meta business to remain with their respective business; and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the Giphy business or the Meta business shall pass, directly or indirectly, from the Giphy business on the one hand (or any of its employees, directors, agents or affiliates) to the Meta business on the other hand (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (for example, where required for compliance with external regulatory and/or accounting obligations) and on the basis that, should the Merger be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

Compliance

- 7. Meta and Giphy shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
- 8. Meta shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Meta with this Order. In particular, on [X] and subsequently every two weeks thereafter (or, where this does not fall on a working day, the first working day thereafter) the Chief Compliance Officer of Meta or other persons as agreed with the CMA shall, on behalf of Meta provide a statement to the CMA in the form set out in Schedule 1 to this Order confirming compliance with this Order.
- 9. Giphy shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Giphy with this Order. In particular, on [X] and subsequently every month thereafter (or, where this does not fall on a working day, the first working day thereafter) the Hold Separate Manager of Giphy or other persons as agreed with the CMA shall, on behalf of Giphy provide a statement to the CMA in the form set out in Schedule 2 to this Order confirming compliance with this Order.
- 10. At all times, Meta and Giphy shall actively keep the CMA informed of any material developments relating to the Meta business and/or the Giphy business, which includes but is not limited to:

- (a) details of Key Staff who leave or join the Giphy business or the Meta business;
 - (b) any interruption of the Giphy business or the Meta business (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
 - (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the Giphy business or the Meta business including any substantial changes in customers' demand; and
 - (d) substantial changes in the Giphy business's or the Meta business's contractual arrangements or relationships with key suppliers.
 - (e) any material developments which falls within the scope of paragraph 6(c), 6(d), 6(e), 6(j) and 6(k).
11. The Monitoring Trustee appointed under the IEO and whose tenure continued under the Final Order shall be re-appointed by Meta and shall continue from the Commencement Date, for the purpose of monitoring and ensuring compliance with the Order. The appointment and work of the Monitoring Trustee shall continue until final determination of the Reference.
 12. Meta and Giphy shall make such changes to the Monitoring Trustee Mandate as are required and approved by the CMA to enable the Monitoring Trustee to monitor and ensure compliance with this Order.
 13. If Meta or Giphy has any reason to suspect that this Order might have been breached, it shall immediately notify the CMA and the Monitoring Trustee.
 14. The Hold Separate Manager appointed under the IEO whose tenure continued under the Final Order shall be re-appointed by Meta and shall continue from the Commencement Date in accordance with the direction given to Meta on 30 July 2020.
 15. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke the Monitoring Trustee Directions and any other such directions so given.
 16. Meta and Giphy shall comply in so far as they are able with such directions as the CMA may from time to time give to take such steps as may be specified or

described in the directions for the purpose of carrying out or securing compliance with this Order.

Interpretation

17. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.

18. For the purposes of this Order:

'Act' means the Enterprise Act 2002;

'affiliate' of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

'business' has the meaning given by section 129(1) and (3) of the Act;

'CMA' means the Competition and Markets Authority;

'Commencement Date' means the date on which this Order is made;

'control' includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

'Final Report' means the report of the CMA entitled *Completed Acquisition by Facebook, Inc. (now known as Meta Platforms, Inc.) of Giphy, Inc.* published on 30 November 2021;

'GIF-related Activities' means any activities relating to the procurement, supply or development of GIF-related Content whether by or to Meta, Giphy or any third party, including (without limitation) any operational, relationship management, strategic, development, technical or back-office activities or services;

'GIF-related Content' means non-text content created or shared by users via a social media, social network or messaging platform (including GIFs, stickers (including GIF stickers), emojis, video clips, images and other micro-expression assets);

'Giphy' means Giphy, Inc.;

'Giphy, Inc.' means the wholly owned subsidiary of Meta acquired by Tabby Acquisition Sub, Inc. a wholly owned subsidiary of Meta, pursuant to the Merger Agreement of 4 May 2020;

'Giphy business' means the business of Giphy and its subsidiaries carried on as at the Commencement Date;

'IEO' means the order imposed by the CMA on pursuant to 72(2) of the Act on Meta, Facebook UK Limited and Giphy with a commencement date of 9 June 2020;

'Meta' means Meta Platforms, Inc;

'Meta Platforms, Inc' means the Delaware incorporated corporation formerly known as Facebook, Inc. whose registered address is 251 Little Falls Drive, Wilmington, New Castle County, Delaware 19808, United States of America;

'Meta business' means the business conducted by Meta and its subsidiaries, carried on as at the Commencement Date;

'Judgment' means the judgment handed down by the CAT on 14 June 2022 setting out the Tribunal's conclusion on each of the grounds of review in Meta's application to the CAT for a review of the CMA's decision in the Final Report, pursuant to section 120 of the Act;

'Key Staff' means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the Giphy Business or the Meta Business;

'Merger' means the completed acquisition by Meta of Giphy through Tabby Acquisition Sub, Inc.;

'Monitoring Trustee' means the monitoring trustee appointed by Meta, Facebook UK Limited and Giphy pursuant to the directions issued by the CMA on 19 June 2020 under the IEO, and whose appointment will continue in accordance with paragraph 4 of this Order;

'the Monitoring Trustee Mandate' means the mandate containing the terms of appointment of the Monitoring Trustee, dated 2 July 2020 and including any subsequent amendments;

'ordinary course of business' means matters connected to the day-to-day supply of goods and/or services by the Meta business or the Giphy business, and does not include matters involving significant changes to the

organisational structure or related to the post-Merger integration of Meta and Giphy;

'Ordinary course of business GIF-related Activities' means the ongoing day-to-day operation, management and technical administration of Meta's application programming interface (API) relationship with any third-party GIF-related Content providers, excluding any activities that are likely to have a material effect on, or result in a substantial change to, the functionality of the API relationship for longer than 24 hours;

'Remedy' means the divestiture of the Giphy business as set out in Chapter 11 of the Report;

'Specified Period' means the period between the Commencement Date and the date that this Order ceases to be in force in accordance with section 81(of the Act);

'SLC' means a substantial lessening of competition;

'subsidiary', unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

'the two businesses' means the Giphy Business and the Meta Business;

'UK' means the United Kingdom of Great Britain and Northern Ireland;

unless the context requires otherwise, the singular shall include the plural and vice versa.

Stuart McIntosh
CMA Inquiry Chair
18 July 2022

Compliance statement for Meta

I [insert name] confirm on behalf of Meta that:

Compliance in the Relevant Period

1. In the period from [●] to [●] (the Relevant Period):
 - (a) Meta has complied with the Order made by the CMA in relation to the Merger on [●] (the Order).
 - (b) Meta's subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by Meta that might prejudice the Reference or impede the taking of any action by the CMA which may be justified by its decision on the Reference, including any action which might:
 - (i) lead to the integration of the Giphy business with the Meta business;
 - (ii) transfer the ownership or control of the Meta business or the Giphy business or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the Giphy business or the Meta business to compete independently in any of the markets affected by the Merger.
 - (b) The Giphy business has been carried on separately from the Meta business and the Giphy business's separate sales or brand identity has been maintained.
 - (c) The Giphy business and the Meta business have been maintained as a going concern and sufficient resources have been made available for the development of the Giphy business and the Meta business, on the basis of their respective pre-merger business plans.
 - (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Giphy business or the Meta business, except in the ordinary course of business.

- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Giphy business and the Meta business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the Giphy business and the Meta business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the Giphy business or the Meta business have been disposed of; and
 - (iii) no interest in the assets of the Giphy business or the Meta business has been created or disposed of.
- (g) There has been no integration of the information technology of the Giphy or Meta businesses, and the software and hardware platforms of the Giphy business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Giphy business have been carried out by the Giphy business alone and, for the avoidance of doubt, the Meta business has not negotiated on behalf of the Giphy business (and vice versa) or entered into any joint agreements with the Giphy business (and vice versa).
- (i) All existing contracts of the Giphy business and the Meta business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to Key Staff of the Giphy business or the Meta business.
- (k) No Key Staff have been transferred between the Giphy business and the Meta business.
- (l) All reasonable steps have been taken to encourage all Key Staff to remain with the Giphy business and the Meta business.

- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the Giphy business (or any of its employees, directors, agents or affiliates) to the Meta business (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except for ordinary course of business GIF-related Activities or as listed in paragraph (p) below, Meta has not entered into any GIF-related Activities in the reporting period.
- (o) Except as listed in paragraph (p) below, there have been no:
 - (i) Key Staff that have left or joined the Giphy business or the Meta business;
 - (ii) interruptions of the Giphy business or the Meta business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Giphy business or the Meta business;
or
 - (iv) substantial changes in the Giphy or Meta business's contractual arrangements or relationships with key suppliers.
- (p) [*GIF-related Activities in the reporting period, save for ordinary course of business GIF-related Activities, and list of material developments*]

3. Meta and its subsidiaries remain in full compliance with the Order and will, or will procure that Giphy, continue actively to keep the CMA informed of any material developments relating to the Giphy or the Meta business in accordance with paragraph 8 of the Order.

Interpretation

4. Terms defined in the Order have the same meaning in this compliance statement.

I understand that:

it is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **finances, imprisonment for a term not exceeding two years, or both.** (Section 117 of the Enterprise Act 2002.)

Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF META PLATFORMS, INC

Signature

Name

Title

Date

Compliance statement for Giphy

I [insert name] confirm on behalf of Giphy that:

Compliance in the Relevant Period

1. In the period from [●] to [●] (the Relevant Period):
 - (a) Giphy has complied with the Order made by the CMA in relation to the Merger on [●] (the Order).
 - (b) Giphy's subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by Giphy that might prejudice the Reference or impede the taking of any action by the CMA which may be justified by its decision on the Reference, including any action which might:
 - (i) lead to the integration of the Giphy business with the Meta business;
 - (ii) transfer the ownership or control of the Meta business or the Giphy business or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the Giphy business or the Meta business to compete independently in any of the markets affected by the Merger.
 - (b) The Giphy business has been carried on separately from the Meta business and the Giphy business's separate sales or brand identity has been maintained.
 - (c) The Giphy business has been maintained as a going concern and sufficient resources have been made available for the development of the Giphy business on the basis of its pre-merger business plan.
 - (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Giphy business, except in the ordinary course of business.
 - (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Giphy business have been maintained and preserved.

- (f) Except in the ordinary course of business for the separate operation of the two businesses:
- (i) all of the assets of the Giphy business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the Giphy business have been disposed of; and
 - (iii) no interest in the assets of the Giphy business has been created or disposed of.
- (g) There has been no integration of the information technology of the Giphy or Meta businesses, and the software and hardware platforms of the Giphy business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Giphy business have been carried out by the Giphy business alone and, for the avoidance of doubt, the Meta business has not negotiated on behalf of the Giphy business (and vice versa) or entered into any joint agreements with the Giphy business (and vice versa).
- (i) All existing contracts of the Giphy business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to Key Staff of the Giphy business.
- (k) No Key Staff have been transferred between the Giphy business and the Meta business.
- (l) All reasonable steps have been taken to encourage all Key Staff to remain with the Giphy business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the Giphy business (or any of its employees, directors, agents or affiliates) to the Meta business (or any of its employees, directors, agents or affiliates), or vice versa.

- (n) Except as listed in paragraph (p) below, there have been no:
- (i) Key Staff that have left or joined the Giphy business;
 - (ii) interruptions of the Giphy business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Giphy business; or
 - (iv) substantial changes in the Giphy business's contractual arrangements or relationships with key suppliers.
- (o) *[list of material developments]*

3. Giphy and its subsidiaries remain in full compliance with the Order and will, or will procure that Giphy, continue actively to keep the CMA informed of any material developments relating to the Giphy business in accordance with paragraph 9 of the Order.

Interpretation

4. Terms defined in the Order have the same meaning in this compliance statement.

I understand that:

5. it is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **fining, imprisonment for a term not exceeding two years, or both**. (Section 117 of the Enterprise Act 2002.)
6. Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF GIPHY, INC

Signature

Name

Title

Date