

**Completed Acquisition by Meta Platforms, Inc. (formerly known as Facebook, Inc.) through its subsidiary Tabby Acquisition, Sub, Inc. of Giphy, Inc.**

**Notice of making a final order pursuant to Section 84 of and Schedule 10 to the Enterprise Act 2002**

**Background**

1. On 15 May 2020, Facebook, Inc. through its subsidiary, Tabby Acquisition Sub, Inc., (together '**Facebook**') completed its acquisition of Giphy, Inc. ('**Giphy**') (the '**Merger**'). 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 on October 28, 2021.
2. 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.
3. On 1 April 2021, the CMA in exercise of its duty under [section 22\(1\)](#) of the Act, made a reference to its chair for the constitution of a group of CMA panel members (the '**Phase 2 Inquiry Group**') to determine, pursuant to [section 35](#) of the Act (the '**Reference**'):
  - a) whether a relevant merger situation has been created; and
  - b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition in any market or markets in the United Kingdom (UK) for goods or services.
4. On 30 November 2021 the CMA published a final report pursuant to [section 38](#) of the Act (the '**Phase 2 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 Meta be required to divest Giphy. (the ‘**Phase 2 Remedy**’)
5. On 20 December 2021, Meta informed the CMA that it did not intend to offer undertakings.
  6. On 23 December 2021 Meta made an application to the Competition Appeal Tribunal (the ‘**Tribunal**’) pursuant to [section 120](#) of the Act for a review of the CMA’s decision in the Final Report and sought an order quashing the CMA’s decisions on the basis of six grounds.
  7. On 29 March 2022, the CMA made an order pursuant to [section 84](#) of the Act for the purpose of remedying, mitigating or preventing the SLCs identified in the Phase 2 Final Report and any adverse effects which have resulted from, or may be expected to result from it (the ‘**Phase 2 Final Order**’). Pursuant to [section 72\(6\)\(a\)\(ii\)](#) of the Act, the IEO ceased to be in force on the date which the Phase 2 Final Order was made.
  8. The Phase 2 Final Order provided that while it commenced on the day it was made, implementation of the Phase 2 Remedy would not commence until the proceedings in the Tribunal, or any associated or consequential proceedings were either concluded or no longer pursued.
  9. After a hearing in April 2022, the Tribunal’s judgment was handed down on 14 June 2022 (the ‘**Judgment**’). In the Judgment, the Tribunal unanimously dismissed five of six of Meta’s grounds of challenge but partially upheld Meta’s application on one ground.
  10. On 15 July 2022 the Tribunal issued an order (the ‘**Tribunal Order**’) remitting the Reference to the CMA for reconsideration in the light of the Judgment (the ‘**Remittal**’). On the same day a group consisting of the same CMA panel members who constituted the Phase 2 Inquiry Group was appointed (the

**'Inquiry Group'**) to investigate the Reference on remittal (the **'Remittal Inquiry'**).

11. On 18 July 2022 in light of the Remittal, the CMA made an interim order pursuant to [section 81](#) of the Act to prevent pre-emptive action during the Remittal and revoked the Phase 2 Final Order (the **'Interim Order'**). The Interim Order will cease to be in force on the date on which this Order is made, pursuant to [section 81\(8\)](#) of the Act. Any derogations already granted by the CMA pursuant to the IEO, the Phase 2 Final Order or Interim Order remain applicable.
12. On 19 October 2022, the CMA issued a final report on the Remittal Inquiry (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 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.
13. On 31 October 2022, Meta advised that it did not intend to offer undertakings.
14. The CMA, having regard to its findings in the Final Report, requires the divestiture of Giphy by Meta (the **'Remedy'**).
15. On 1 December 2022 the CMA published a notice and consultation on a proposed Final Order, pursuant to [sections 41](#) and [84](#) of and [Schedule 10](#) to the Act, requiring Meta to divest Giphy.
16. The consultation closed on 30 December 2022 and no responses were received.
17. The CMA now gives notice of the making of its Final Order 'The Meta Platforms, Inc./Giphy, Inc. Final Order 2022'. The Final Order may be varied or revoked by the CMA under [sections 84\(3\)](#) or [162](#) of the Act.

18. This notice and a non-confidential version of the Final Order will be published on the [case page](#). The CMA has excluded from the non-confidential version of the Final Order information which it considers should be excluded having regard to the three considerations set out in [section 244](#) of the Act. These omissions are indicated by [X].

Signed by authority of the CMA

Stuart McIntosh

*Inquiry Chair*

6 January 2023