

Acquisition by Farfetch of interest in, and certain governance rights over, YOOX Net-a-Porter Group from Richemont, in consideration for the acquisition of a minority shareholding by Richemont in Farfetch

Decision on relevant merger situation and substantial lessening of competition

ME/7015/22

The Competition and Market Authority's decision on reference under section 33(1) of the Enterprise Act 2002 given on 29 March 2023. Full text of the decision published on 31 May 2023.

Please note that [X] indicates figures or text which have been deleted at the request of the parties for reasons of commercial confidentiality. Figures may have also been replaced by ranges at the request of the parties as a way to protect commercial confidentiality.

SUMMARY

1. The Competition and Markets Authority (**CMA**) has found that the various interconnected and interdependent transactions and commercial agreements signed or agreed by Farfetch Limited (**Farfetch**) and Compagnie Financière Richemont S.A. (**Richemont**) on 24 August 2022 to form an overall partnership between them (the **Partnership**) do not give rise to a substantial lessening of competition (**SLC**) within any markets in the United Kingdom (**UK**) for goods and services.
2. The Partnership includes:
 - (a) the acquisition by Farfetch of a 47.5% shareholding in, and certain governance rights over, YOOX Net-a-Porter Group S.p.A (**YNAP**) from Richemont, in consideration for the acquisition by Richemont of a minority shareholding in Farfetch;

- (b) a technology partnership pursuant to which all luxury and fashion online retailers operated by YNAP as well as various luxury and fashion brands owned by Richemont will adopt the e-commerce and in-store technology stack offered by Farfetch; and
 - (c) a marketplace partnership through which many luxury and fashion brands owned by Richemont will become sellers on the Farfetch Marketplace, a luxury and fashion marketplace operated by Farfetch.
- 3. Farfetch, Richemont and YNAP are together referred to in this decision as the **Parties**, and for statements referring to the future, the **Merged Entity**.
- 4. The CMA believes that it has jurisdiction to review the Partnership, because arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation. First, the CMA considers that each of Farfetch, YNAP and Richemont is an enterprise and that these enterprises will cease to be distinct as a result of the Partnership. Specifically, the Partnership will enable Farfetch to materially influence YNAP's policy and strategic decisions and will also allow Richemont to materially influence Farfetch's policy and strategic decisions. Second, the CMA considers that the turnover test (one of the jurisdictional thresholds set out in the Enterprise Act 2002 (the **Act**)) is met. In particular, the UK turnover of each of Farfetch and YNAP exceeded £70 million in 2022.
- 5. The CMA found that Farfetch (with Farfetch Marketplace, Browns and Stadium Goods) and Richemont/YNAP (with Net-a-Porter, Mr Porter, YOOX and The Outnet) operate websites and mobile applications on which UK consumers can search for and purchase a range of personal goods (eg clothing, shoes, accessories, jewellery and watches) from various luxury and fashion brands.
- 6. The evidence reviewed by CMA, such as the Parties' internal documents and information provided by fashion and luxury brands and competitors, indicates that the websites and mobile applications operated by the Parties compete closely with each other. However, the same evidence also indicates that the Merged Entity will continue to face competition from a range of alternatives, including other online websites and mobile applications selling a range of personal goods from multiple luxury and fashion brands, the websites and mobile applications of individual brands, as well as brick-and-mortar stores. The CMA therefore believes that these constraints, taken together, are sufficient to ensure that the Partnership does not give rise to a realistic prospect of a SLC as a result of horizontal unilateral effects in the online retail supply of personal goods from multiple luxury and fashion brands in the UK.

7. The Partnership will therefore **not be referred** under section 33(1) of the Act.

ASSESSMENT

PARTIES

Farfetch

8. Farfetch is a publicly traded company listed on the New York Stock Exchange and with principal executive offices in the UK. In 2022, it had a worldwide turnover of approximately \$2.3 billion and a UK turnover of roughly £[X].¹
9. Farfetch is the parent company of various businesses active in the luxury and fashion industry. Worldwide and in the UK, its businesses include:
 - (a) **Farfetch Marketplace**, an e-commerce marketplace for luxury and fashion brands and retailers.
 - (b) **Browns**, a fashion and luxury personal goods retailer with in-store and online offerings.
 - (c) **Stadium Goods**, a retailer of premium sneakers and streetwear with in-store and online offerings.
 - (d) **FPS**, a white label enterprise offering of e-commerce and retail technology solutions for luxury and fashion brands and retailers.

Richemont and YNAP

10. Richemont is a company listed on the SIX Swiss Exchange. In 2022, it had a worldwide turnover of approximately £[X], of which roughly £[X] was generated in the UK.²
11. Richemont is the holding company for a group of businesses active in luxury and fashion. Worldwide and in the UK, its businesses include:
 - (a) **YNAP** (see paragraph 12);
 - (b) **Richemont Maisons**, a portfolio of luxury jewellery, specialist watchmakers, and fashion and accessories brands selling directly and indirectly to consumers in-store and/or online;³ and

¹ [Farfetch Form 20-F for the fiscal year ended 31 December 2022](#); Farfetch's response to the CMA questions of 21 March 2023. Non-audited figures.

² Richemont's response to the CMA questions of 21 March 2023. Non-audited figures.

³ These include, for example, the jewellery Maisons Cartier and Van Cleef & Arpels, the specialist watchmakers Maisons IWC Schaffhausen and Jaeger-LeCoultre, and the fashion and accessories Maisons Chloé and Montblanc. See further at: [Richemont's website - Maisons](#).

- (c) **Watchfinder & Co.**, a retailer for pre-owned luxury watches with in-store and online offerings.
12. YNAP is an Italian limited liability company. In 2022, YNAP had a worldwide turnover of around £[×], of which approximately £[×] was generated in the UK.⁴ YNAP operates a number of luxury and fashion businesses worldwide and in the UK, including:
- (a) **Net-a-Porter**, an online retailer offering personal luxury, beauty and home design goods from various brands targeting women.
 - (b) **Mr Porter**, an online retailer similar to Net-a-Porter but targeting men.
 - (c) **YOOX**, an online retailer offering end-of-season and discounted clothing and accessories, both from designer brands and more affordable brands, in addition to full-price fashion, home design objects and art pieces.
 - (d) **The Outnet**, an online retailer offering end-of-season personal luxury goods from a range of designer brands at discounted prices.
 - (e) **Online Flagship Stores (OFS)**, a white-label e-commerce offering for luxury and fashion brands and retailers, utilising the proprietary YOOX platform. OFS currently powers some Richemont Maisons.⁵
13. For the purposes of this decision, Net-a-Porter, Mr Porter, YOOX, and The Outnet are together referred to as the **YNAP Online Retailers**.

TRANSACTION AND RATIONALE

14. On 24 August 2022, Farfetch and Richemont signed and agreed a number of transactions and commercial agreements. These included the acquisition by Farfetch of a 47.5% shareholding in, and certain governance rights over, YNAP, and the acquisition by Richemont of a minority shareholding in Farfetch. Evidence received by the CMA shows that the transactions and commercial agreements made on this date are, to a significant extent, interconnected and interdependent.⁶ In the CMA's assessment, these

⁴ Richemont's response to the CMA questions of 21 March 2023. Non-audited figures. Excludes revenues from Feng Mao, the joint venture between Alibaba and YNAP in China.

⁵ Alaïa, Cartier, Chloé, Dunhill, and Montblanc.

⁶ The documents bringing about these transactions and commercial agreements were signed or agreed on 24 August 2022; refer to certain other transactions/commercial agreements and to the documents bringing about these certain other transactions/commercial agreements; and establish that completion of some transactions/commercial agreements is subject to completion of and/or steps being taken in relation to certain other transactions/commercial agreements. These transactions/commercial agreements were also announced by Farfetch and Richemont/YNAP in a single press release on 24 August 2022 ([Farfetch press release](#) and [Richemont press release](#)). Further, Parties' presentations to investors refer to these transactions/commercial

transactions and commercial agreements together formed an overall partnership between Farfetch and Richemont. These transactions and commercial agreements and many of the different documents bringing about the Partnership are described below.

YNAP Shareholding Acquisition and Farfetch Minority Shareholding Acquisition

15. Through a share purchase agreement of 24 August 2022 (the **SPA**), Farfetch has agreed to acquire a 47.5% interest in, and certain governance rights over, YNAP.⁷ Richemont will retain a 49.3% interest in, and certain governance rights over, YNAP (the **YNAP Shareholding Acquisition**).⁸ Following completion of the YNAP Shareholding Acquisition, Farfetch may later increase its ownership in YNAP to 100% through a put-and-call option mechanism.^{9, 10}
16. The value of the YNAP Shareholding Acquisition is approximately £[~~8~~].¹¹ In consideration for this acquisition, Farfetch has agreed to:¹²
 - (a) issue 53-58.5 million Farfetch Class A ordinary shares to Richemont on completion of the YNAP Shareholding Acquisition, expected to represent approximately 10-11% of the fully diluted share capital of Farfetch; and
 - (b) pay \$250 million in deferred consideration five years after closing of the YNAP Shareholding Acquisition. This is expected to be settled in Farfetch Class A ordinary shares (potentially representing a further [0-5]-

agreements as being interconnected and part of a broader partnership ([Farfetch's presentation to investors on 24 August 2022](#) and [Richemont's presentation to investors on 24 August 2022](#)). In addition, the Parties' internal documents show that these transactions/commercial agreements were negotiated simultaneously and were seen by the Parties and their principals as interconnected and interdependent elements of a broader partnership (Merger Notice, Annexes 4, 68, 70-74, 80, 82-83, 88, 94, 96, 97, 103, 133, 135, 141-142, 144, 162, 164, 184, 448-449, 451, 466, 479, 482, 491, 498, 509, 520, 524, 535-536; and Richemont/YNAP response to a request for information and document made by the CMA under section 109 of the Act of 24 January 2023, Annex 296). Analyst reports also refer to these transactions/commercial agreements as being interconnected and part of a broader partnership (Merger Notice, Annexes 319-340, 343, 345, 349, 868, 873, 882-883, 896-897, 902, 908, 911-912, 931, 952, 966, 981, 984, 988-989, 998, 1031, 1059, 1072, 1078, 1098, 1109).

⁷ Merger Notice, Annex 2.

⁸ Symphony Global LLC (**Symphony**) will acquire an interest of approximately 3.2% in, and certain governance rights over, YNAP. Symphony is an investment vehicle ultimately owned by Mohamed Alabbar. Symphony's acquisition of a minority shareholding in, and certain governance rights over, YNAP is not discussed further in this decision.

⁹ This is exercisable by Farfetch and Richemont from completion of the YNAP Shareholding Acquisition or its third anniversary until its fifth anniversary, respectively. In line with section 27(3) of the Act, the CMA has not taken account of the increased shareholding which may result from the put-and-call option, since it has not yet been exercised. Accordingly this facet of the agreement is not discussed further in this decision.

¹⁰ The YNAP Shareholding Acquisition is conditional on competition clearance in various jurisdictions, including in the UK and in the European Union. Merger Notice, paragraph 58 and Annex 2, clause 3.1(B) and Schedule 9.

¹¹ Merger Notice, paragraph 31. This also includes parts of the OFS business, see paragraphs 18-19.

¹² Merger Notice, paragraphs 20 (and related footnotes 13 and 15), 67, 78 and 95-103, and Table 6.

[5-10]% of the fully diluted share capital of Farfetch) but may be settled in cash.¹³

17. Richemont will therefore acquire a minority shareholding in Farfetch of approximately (a) a minimum of [10-15]% and maximum of [15-20]% in the fully diluted share capital, and (b) a minimum of [0-5]% and maximum of [5-10]% of voting rights (the **Farfetch Minority Shareholding Acquisition**).^{14, 15}

OFS Customer Relationship Acquisition

18. By virtue of another Partnership agreement signed on 24 August 2022, the Parties have agreed to make separate arrangements for the OFS business compared to the rest of the YNAP business.¹⁶ Specifically, the Parties have agreed that post-completion of the YNAP Shareholding Acquisition, the OFS business will remain part of and would continue to be operated by YNAP. Further, Richemont will continue to bear the economic risk and reward associated with this business.¹⁷ Ultimately, Richemont/YNAP will [X] the OFS business after the adoption of the FPS commerce technology stack by all YNAP Online Retailers and most Richemont Maisons, as well as the [X].¹⁸
19. The relevant agreement also includes measures to facilitate the migration of [X], except for the Richemont Maisons which, as part of the Partnership, will [X] adopt the FPS commerce technology stack (see paragraph 20).¹⁹

Technology Partnership

20. Through certain other Partnership agreements of 24 August 2022, the Parties have agreed that all YNAP Online Retailers and most Richemont Maisons will adopt the FPS commerce technology stack, including e-commerce and in-store technology, as applicable (the **Technology Partnership**).²⁰ Currently,

¹³ The Parties submitted that Farfetch is a publicly traded company and future shareholdings are subject to change over time. They estimated Richemont's shareholding in Farfetch from the shares that would be issued on completion of the YNAP Shareholding Acquisition and the settlement of the \$250 million deferred consideration based on different scenarios depending on prevailing Farfetch share prices. Merger Notice, Table 6.

¹⁴ Merger Notice, Table 6.

¹⁵ The Farfetch Minority Shareholding Acquisition is conditional on competition clearance in Germany. Merger Notice, paragraph 58 and Annex 2, clause 3.1(B) and Schedule 9.

¹⁶ OFS Tracking Agreement. Merger Notice, Annex 201.

¹⁷ The CMA notes that while OFS will remain part of YNAP post-transaction, the economic risk and reward for this business will not be shared by all post-transaction YNAP shareholders, and instead will be borne solely by Richemont. Merger Notice, paragraphs 115, 207 and 400; and Annex 201 (OFS Tracking Agreement), clause 7.

¹⁸ Merger Notice, paragraphs 115, 201, 207 and 400; and Annex 201 (OFS Tracking Agreement), clause 6.

¹⁹ OFS Tracking Agreement, clauses 2.2-2.9. Merger Notice, Annex 201.

²⁰ Richemont Framework Agreement, YNAP Framework Agreement, Statement of Work – Cartier, Statement of Work – Net-a-Porter, Statement of Work – Mr Porter, Statement of Work – The Outnet, Statement of Work – YOOX. Merger Notice, Annexes 191-197.

different Richemont Maisons use e-commerce and in-store technologies of different suppliers for their online and in-store offerings in the UK.²¹

Farfetch Marketplace Partnership

21. By virtue of another Partnership agreement dated 24 August 2022, the Parties have agreed that most Richemont Maisons will enter into e-concession agreements in respect of the Farfetch Marketplace for an initial period of at least [X], subject to [X] as to the [X] of the Richemont Maisons inventory on the Farfetch Marketplace (the **Farfetch Marketplace Partnership**).²² Currently, some Richemont Maisons sell their personal luxury goods online through their own websites and mobile applications, certain YNAP Online Retailers, and/or other online multi-product, multi-brand retail suppliers of personal luxury goods (ie other websites and mobile applications selling a range of personal goods from multiple luxury and fashion brands) in the UK. Prior to the Partnership, the majority of Richemont Maisons were not sellers on the Farfetch Marketplace.²³

Rationale for the Partnership

22. In relation to Farfetch, the Parties submitted that the Partnership adds the Richemont Maisons as sellers on Farfetch Marketplace increasing its product range.²⁴ The Partnership will also result in most Richemont Maisons adopting FPS, encouraging other potential brand customers to switch to FPS.²⁵ Moreover, Farfetch will benefit from YNAP's expertise to provide a better service to brands and consumers using the Farfetch Marketplace.²⁶
23. The Parties submitted that the Partnership addresses YNAP's [X] of YNAP Online Retailers. YNAP's OFS e-commerce technology stack supports a "first-party" (1P)/wholesale business model²⁷ and is [X] for brands that [X] prefer to supply personal luxury goods online through players using a "third-party" (3P)/concession business model.²⁸ The Parties said that they expect the

²¹ Merger Notice, Annex 233. For instance, some Richemont Maisons use the OFS e-commerce technology stack, while others use e-commerce technologies of third-party suppliers.

²² Marketplace Undertaking Deed, Merger Notice, Annex 203.

²³ Except for AZ Factory (including G-FORE). Merger Notice, Annex 249.

²⁴ Merger Notice, paragraphs 7(c), 49(b)-(c), 51, and 53.

²⁵ Merger Notice, paragraphs 426 and 435.

²⁶ Merger Notice, paragraph 49(a).

²⁷ Under the 1P/wholesale business model, luxury and fashion brands sell inventory to retailers, which take ownership over the inventory (and thus inventory risk) and control over the sales made, including the relationship with consumers and pricing. Merger Notice, paragraph 222 and Table 20.

²⁸ Under the 3P/concession business model, luxury and fashion brands retain ownership over inventory and control over the sales made, including the relationship with consumers and pricing. Merger notice, paragraphs 7(a), 34, 37, 40-47, 223-224 and Table 20.

transition to FPS and a hybrid 1P/3P business model will improve YNAP Online Retailers' performance and profitability.²⁹

24. Regarding Richemont, the Parties submitted that the Partnership will enable it to [X] and the Richemont Maisons to implement the more sophisticated omni-channel capabilities developed by Farfetch under FPS.³⁰ The Partnership will also allow Richemont to [X].³¹
25. The Parties' public statements³² and internal documents³³ seen by the CMA generally support their stated rationale for the Partnership.

RELEVANT MERGER SITUATION AND JURISDICTION

26. The CMA has jurisdiction to review transactions under its merger control function set out in the Act where arrangements are in progress or in contemplation which, if carried into effect, will lead to the creation of a relevant merger situation as a result of two or more enterprises ceasing to be distinct, and either the turnover or the share of supply test is met.³⁴
27. The CMA believes that the Partnership, as described in paragraphs 14-21, constitutes arrangements in progress or in contemplation for the purposes of section 33(1)(a) of the Act.³⁵ The CMA also believes that each of Farfetch, YNAP, and Richemont is an 'enterprise' under section 129 of the Act. Further, the CMA believes that the turnover test in section 23(1)(b) of the Act is satisfied, given that the UK turnover of each of Farfetch and YNAP exceeded £70 million in 2022 (see paragraphs 8 and 12).
28. The CMA has therefore assessed whether, as a result of the Partnership, Farfetch, YNAP, and Richemont will cease to be distinct for the purposes of sections 23(1)(a) and 26 of the Act.

²⁹ Merger Notice, paragraph 7(b).

³⁰ Merger Notice, paragraphs 40, 50, 115 and 192.

³¹ Merger Notice, paragraph 50.

³² [Farfetch press release](#); [Richemont press release](#); [Farfetch's presentation to investors on 24 August 2022](#); [Richemont's presentation to investors on 24 August 2022](#).

³³ Merger Notice, Annexes 4, 82, 87, 92, 96-97, 99, 103, 154, 478-479, 491, 509, 520, 524, and 535-536.

³⁴ [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), chapter 4.

³⁵ As noted in paragraph 14, while the Parties have signed and agreed separate transactions and commercial agreements, evidence received by the CMA shows that these transactions and commercial agreements are interconnected and interdependent, collectively bringing about the Partnership. Accordingly, the CMA considers it appropriate to view any relevant merger situation brought about by the acquisition of control over YNAP by Farfetch, and over Farfetch by Richemont as taking place in the context of the Partnership as a whole, thereby encompassing the transactions and commercial agreements made or agreed between the Parties on 24 August 2022. This gives effect to the general principle that the purpose of UK merger control is to enable the CMA to consider the commercial realities and results of transactions and that the focus should be on substance and not legal form. [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), paragraph 4.24.

Enterprises ceasing to be distinct

29. Ceasing to be distinct is defined in section 26 of the Act as two enterprises being brought under common ownership or common control.
30. The ability to exercise material influence over the target is the lowest level of control identified by the Act.³⁶ Material influence exists where the acquirer can materially influence policy relevant to the behaviour of the target in the marketplace. 'Policy' in this context means the management of the target's business, and thus includes the strategic direction of the target and its ability to define and achieve its commercial objectives.³⁷
31. Notably, the ability materially to influence the target's policy does not imply an ability to control it and does not amount to an ability to drive policy in a direction to which other shareholders, management, or the board object. Rather, it is the ability materially to influence relevant strategic or commercial matters, either positively (ie by persuading the target or its management to pursue certain courses of action) or negatively (ie by dissuading the target or its management from pursuing a particular course of action).³⁸
32. The assessment of material influence requires a case-by-case analysis of the overall relationship between the acquirer and the target. The CMA will have regard to all the circumstances of the case,³⁹ including the significance of the rights conferred by formal agreements and structure, as well as the commercial realities of the relationship between the acquirer and the target.⁴⁰

Level of influence exerted by Farfetch over YNAP

33. The Parties submitted that Farfetch will acquire at least the ability to exercise material influence over YNAP.⁴¹
34. Based on the evidence received during its investigation, the CMA considers that the Partnership would result in Farfetch having the ability to exercise at least material influence over YNAP based on a number of factors that have been recognised in the CMA's guidance as having the potential to give rise to the ability to exercise material influence:

³⁶ Section 26(3).

³⁷ [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), paragraph 4.17.

³⁸ CMA's [Final Report](#) in *Amazon/ Deliveroo* dated 4 August 2020, paragraph 4.12.

³⁹ [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), paragraph 4.18.

⁴⁰ CMA's [Final Report](#) in *Amazon/ Deliveroo* dated 4 August 2020, paragraph 14.

⁴¹ Merger Notice, paragraph 121.

- (a) Farfetch will hold 47.5% of the voting rights in YNAP⁴² and the ability to block special resolutions.^{43, 44}
- (b) Farfetch will have veto rights over YNAP's policy in respect of, for example, i) business plans and budget; ii) the appointment of the CEO and CFO; and iii) the commercial agreements relating to the adoption by YNAP Online Retailers [REDACTED].^{45, 46}
- (c) Farfetch will have the right to appoint three out of seven members to the YNAP board of directors, with convened board meetings [REDACTED] being quorate if [REDACTED] one Farfetch director [REDACTED].^{47, 48}
- (d) Important commercial agreements between Farfetch and YNAP would make YNAP reliant on the supply of certain services by Farfetch. Specifically, YNAP Online Retailers will rely on Farfetch for the underlying e-commerce technology powering their operations (see Technology Partnership).⁴⁹
- (e) Farfetch's status and expertise is also a factor likely to lend influence to its views among other YNAP shareholders and directors. Farfetch has significant expertise in online sales of personal luxury goods through a 3P/concession business model, with the Parties expecting that this new model enabled by the FPS commerce technology stack and Farfetch's expertise in this area will improve YNAP Online Retailers' performance and profitability over time.^{50, 51}

⁴² Merger Notice, Annex 2, clause 2.1 and Schedule 1.

⁴³ Pursuant to the agreed form shareholders' agreement between Farfetch, Richemont and Symphony (the **Form SHA**), special resolutions require at least [REDACTED]% of the votes cast by shareholders to be passed. The matters requiring a special resolution include: (a) [REDACTED]; (b) [REDACTED]; and (c) [REDACTED]. Merger Notice, Annex 190, clauses 1.1 ('[REDACTED]') and 3.2(A).

⁴⁴ The CMA's guidance states that given the nature of decisions that typically will require a special resolution, where an acquirer controls sufficient votes to block such resolutions, this will likely give rise to the ability to materially influence the target's policy. [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), paragraph 4.22.

⁴⁵ Form SHA, clause 3.2(B). Merger Notice, Annex 190.

⁴⁶ The CMA's guidance states that an acquirer's veto rights over the target's policy or strategic matters are capable of conferring material influence. [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), paragraph 4.25.

⁴⁷ Form SHA, clauses 5.2 and 8.3(A). Merger Notice, Annex 190.

⁴⁸ Board representation is a factor recognised by the CMA's guidance as a potential source of material influence. [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), paragraph 4.28.

⁴⁹ The CMA's guidance states that supplier/customer relationships between an acquirer and the target can be a source of material influence. [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), paragraph 4.31.

⁵⁰ Merger Notice, Annexes 4, 71, 80, 82, 87, 162, 478-479, 491, 520, 536.

⁵¹ The CMA's guidance notes that an acquirer's status and expertise, and its corresponding influence with other target's shareholders and the board of directors, is another source of material influence. [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), paragraphs 4.26 and 4.29.

Level of influence exerted by Richemont over Farfetch

35. The Parties submitted that Richemont will not be able to exercise material influence over Farfetch as a result of the Partnership. Specifically, the Parties stated that Richemont's voting rights will be below the levels highlighted in the CMA's Jurisdiction and Procedure Guidance to afford an acquirer the ability to block special resolutions of the target; Richemont will have no veto or governance rights over Farfetch; there will be no other factors which will alter the incentives of other Farfetch shareholders or directors to attach greater weight to Richemont's views; and neither the Marketplace Partnership, nor the Technology Partnership will create a situation of financial dependency between Richemont and Farfetch.⁵²

Richemont's shareholding and voting rights

36. As noted in paragraph 17, as a result of the Partnership, Richemont will acquire a minimum of approximately [10-15]% and a maximum of approximately [15-20]% in Farfetch's fully diluted share capital, corresponding to a minimum of approximately [0-5]% and a maximum of approximately [5-10]% of Farfetch's voting rights. Further, the relevant Partnership documents do not confer upon Richemont veto rights, or the right to appoint members to the Farfetch board of directors.⁵³ However, the CMA will assess all relevant factors in aggregate in assessing whether a transaction may result in the acquisition of an ability to exercise material influence.⁵⁴
37. The CMA notes that the Parties' internal documents show that in negotiating the Partnership agreement, Richemont sought ways to maximise its influence over Farfetch through its minority shareholding and by securing governance rights. The CMA considers that this has been motivated by an awareness that, post-Partnership, Farfetch would play a strategic role as a [X] technology supplier to the Richemont Maisons (see Technology Partnership) and a desire by Richemont to protect its interests against, for example, unwanted merger and acquisition activity and management changes affecting Farfetch.⁵⁵
38. The Parties' internal documents also show that Farfetch sought to reassure Richemont that its minority shareholding (together with other commercial agreements forming part of the Partnership) would confer a [X] by Farfetch

⁵² Merger Notice, paragraphs 68-78 and 122, and Table 6.

⁵³ Richemont will have the right to appoint a member to the Farfetch board of directors in the event the put-and-call option mechanism is exercised. As noted in footnote 9, in line with section 27(3) of the Act, the CMA has not taken account of the put-and-call option, since it has not yet been exercised. Accordingly this facet of the agreement is not discussed further in this decision.

⁵⁴ [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), paragraph 4.23.

⁵⁵ Merger Notice, Annexes 4, 445, 479, 520 and 535-536.

on Richemont as its largest shareholder, [X], and [X] Farfetch Marketplace customers.⁵⁶

39. The CMA therefore considers that the acquisition of material influence over Farfetch policy was a key objective for Richemont in agreeing to the Partnership (see paragraph 37). The CMA also considers that Farfetch represented to Richemont that the Partnership would confer upon Richemont the ability materially to influence Farfetch's policy (see paragraph 38).
40. The CMA has also considered other factors which, taken together, may mean that Richemont will have the ability to exercise material influence over Farfetch in accordance with the CMA's guidance, including a Voting Commitment Deed, Richemont's status and expertise in the industry, its relationship with José Neves (**Mr Neves**), Farfetch's majority shareholder and CEO, and its role as an important supplier and customer of the Farfetch businesses. These factors are described and discussed in paragraphs 41-49.

The Voting Commitment Deed

41. Richemont, Mr Neves,⁵⁷ and Farfetch signed a Voting Commitment Deed as part of the suite of Partnership agreements executed or agreed on 24 August 2022.⁵⁸ The Parties' internal documents reviewed by the CMA show that this deed was intended, in part, to accommodate the interests of Richemont highlighted in paragraph 37.⁵⁹
42. The CMA considers that Richemont's desire to have the ability to exercise material influence over Farfetch is reflected in the provisions of the Voting Commitment Deed. For example, under the deed, Mr Neves has agreed to exercise his majority voting rights in line with certain Richemont interests, most notably: (a) in relation to the identity of future shareholders of Farfetch,⁶⁰ and (b) the undertaking of certain necessary steps to implement the potential future disposal by Richemont of its remaining shares in YNAP to Farfetch (and the resulting increase in Richemont's shareholding in Farfetch) should the put-

⁵⁶ Merger Notice, Annex 169.

⁵⁷ Mr Neves (and his affiliates) holds approximately 71% of Farfetch's voting rights and Farfetch's board of directors cannot form a quorum without Mr Neves so long as he remains a director. [Farfetch Form 20-F for the fiscal year ended 31 December 2022](#).

⁵⁸ The CMA considers that the Farfetch Minority Shareholding Acquisition and the Voting Commitment Deed are interconnected and form part of the set of transactions and commercial agreements signed and agreed as part of the Partnership on 24 August 2022. Specifically, the SPA setting out the Farfetch Minority Shareholding Acquisition and the Voting Commitment Deed refer to each other and were negotiated and signed simultaneously.

⁵⁹ Merger Notice, Annex 445.

⁶⁰ Mr Neves (and his affiliates) undertook not to transfer Farfetch shares to Richemont's [X] competitor, [X]. Merger Notice, Annex 200, clause 2.1.

and-call option mechanism described in paragraph 15 be exercised.⁶¹ Accordingly, the CMA considers that the Voting Commitment Deed elevates Richemont's influence over Farfetch policy beyond the level that it would be able to exert through its own direct voting rights.

43. Richemont has also agreed under the Voting Commitment Deed to exercise its votes in a manner aligned with Farfetch and Mr Neves' interests in certain respects.⁶² The CMA considers it unlikely that this commitment would have been relevant to Farfetch or Mr Neves if the Parties believed that Richemont did not have the ability materially to influence Farfetch policy.

Other sources of influence by Richemont over Farfetch shareholders and directors

44. In line with its guidance, the CMA may also consider other additional ways through which an acquirer may have the ability materially to influence the target's policy as a result of its influence over other shareholders and the board of directors.⁶³ Evidence seen by the CMA indicates that Richemont has various ways to influence other shareholders and board members which may affect Farfetch policy.
45. First, Richemont's status and expertise likely confers influence over Farfetch's shareholders and board of directors. Richemont is one of the largest luxury and fashion conglomerates in the world, and the owner of prestigious brands recognised by their hard luxury (eg watches and jewellery) and luxury fashion goods.⁶⁴ Richemont was an early investor in and adopter of e-commerce technology, which it has acknowledged is important for the luxury and fashion industry, as demonstrated by its successive investments in YNAP.⁶⁵
46. Second, the CMA considers that Richemont's influence is enhanced by its relationship with Mr Neves (who holds controlling rights over Farfetch and is a director on its board), [§<]. Specifically, in the years preceding the Partnership, Richemont and Mr Neves developed increasingly close commercial ties and

⁶¹ Mr Neves (and his affiliates) agreed to direct their voting rights to vote in a manner that enables new Farfetch shares to be issued in order to allow Richemont to increase its shareholding in Farfetch if the put-and-option mechanism is exercised. Merger Notice, Annex 200, clause 2.2.

⁶² Richemont agreed to vote in favour of any shareholder resolution to appoint Mr Neves to the Farfetch board of directors, as well as to vote with him in relation to certain key corporate decisions (eg appointments to the board of directors). Voting Commitment Deed, clause 2.3. Merger Notice, Annex 200.

⁶³ These include the status and expertise of an acquirer, specific incentives of the various board members, and relevant customer and supply agreements or financial arrangements between an acquirer and the target. [Merger: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), paragraphs 4.26, 4.29, 4.31-4.32.

⁶⁴ [Richemont Group presentation](#).

⁶⁵ Richemont increased its shareholding over time from 2002, acquiring 100% of YNAP in 2018. Merger Notice, Annexes 111, 479, 491, 494, and 520.

alignment around a common strategy to redefine the future of luxury retail.^{66, 67} The CMA believes that the Partnership would reinforce these existing ties and alignment,⁶⁸ and that Richemont and Farfetch acknowledge the relevance of the existing ties and strategic alignment between Richemont and Mr Neves for the implementation and execution of the Partnership over time.⁶⁹

47. Third, the CMA considers that, as a result of the Partnership, Richemont would become an important business and financial partner of Farfetch in relation to i) key areas into which Farfetch is seeking to expand, and ii) for the successful execution of Farfetch's investment in YNAP. In particular:
- (a) FPS business. Farfetch submitted that, as a result of the Partnership, Richemont would become [§<] significant FPS customer.⁷⁰ Farfetch's internal documents and statements to investors indicate that the supply of e-commerce services to the luxury and fashion industry is a key area into which Farfetch is seeking to expand in the coming years. This evidence also shows that Farfetch expects that having the Richemont Maisons as FPS customers would confer the significant benefit of demonstrating the strength, efficiency, and effectiveness of the FPS commerce technology stack, and encouraging other potential customers in the luxury and fashion industry to switch to FPS.⁷¹
 - (b) Farfetch Marketplace. Farfetch submitted that the Farfetch Marketplace is its principal business and revenue source in the UK and worldwide.⁷² It also submitted that, as a result of the Partnership (especially the Marketplace Partnership), Richemont would become an important supplier of hard luxury products, such as watches and jewellery, to the

⁶⁶ Richemont and Farfetch refer to this overarching strategy as Luxury New Retail. Merger Notice, paragraphs 50 and 54; and [Farfetch Form 20-F for the fiscal year ended 31 December 2022](#).

⁶⁷ For instance, in November 2020, as a result of an initiative of Mr Neves, Farfetch and Richemont (together with Alibaba and Artemis) formed the Luxury New Retail steering group to explore innovative technologies and distribution methods to support the digitalisation of the luxury retail industry. Also in November 2020, Richemont and Farfetch (together with Alibaba) announced a partnership in Farfetch China (a joint venture which operates Farfetch's business in China) and an investment of \$300 million in private convertible notes issued by Farfetch. Evidence seen by the CMA shows that Mr Neves was personally involved in the negotiations leading to Richemont's investment in Farfetch China and Farfetch's private convertible notes. Other internal documents also show that in the context of such investments, Richemont considered it important that Mr Neves would continue to lead as Farfetch main shareholder and CEO [§<]. Merger Notice, Annexes 81, 96 and 97; [Farfetch press release of 5 November 2020](#).

⁶⁸ See, for example, paragraph 43.

⁶⁹ For instance, internal documents seen by the CMA show that for Richemont it was important that [§<]. Merger Notice, Annex 445. Similarly, in its most recent annual report, Farfetch noted that 'if Mr Neves were to lose voting control of [Farfetch], this could have an adverse impact on [Farfetch's] relationships with [its] strategic partners and could result in [Farfetch's] inability to execute on [its] various business initiatives with Richemont and YNAP.' [Farfetch Form 20-F for the fiscal year ended 31 December 2022](#).

⁷⁰ Merger Notice, paragraph 77(e).

⁷¹ Merger Notice, paragraph 426 and Annexes 88 and 99; [Farfetch's presentation to investors on 24 August 2022](#); and [Farfetch's presentation to investors on 1 December 2022](#).

⁷² Merger Notice, paragraphs 2 and 108(a).

Farfetch Marketplace.⁷³ Evidence received by the CMA indicates that Farfetch is seeking to expand into hard luxury, and that adding the Richemont Maisons to the Farfetch Marketplace would elevate the platform and attract high-spending customers.⁷⁴

- (c) YNAP. Richemont would retain a 49.3% interest in YNAP, becoming Farfetch's main partner in this joint venture (see paragraph 15). Evidence seen by the CMA indicates that [X] funding would be required to execute [X] plans envisaged by Farfetch and Richemont to improve the performance and profitability of the YNAP Online Retailers in the next [X] years. This evidence also shows that to implement such plans, Farfetch considered it important that YNAP was [X] funded [X].⁷⁵ As part of the Partnership, Richemont has therefore committed to make available to YNAP, for up to ten years, a credit facility for an additional approximately £393 million.⁷⁶

48. Therefore, the CMA considers that the factors listed above would also give Richemont influence over Farfetch's shareholders, board of directors, and senior management.
49. Fourth, Richemont would become a significant minority shareholder in Farfetch, which is a publicly traded company with a fractured shareholder base.⁷⁷ Given the long-term nature of the Partnership and certain [X],⁷⁸ Richemont would maintain its significant minority shareholding in Farfetch over time, even as the identity of other minority shareholders, such as financial investors, may change. The CMA considers this would in practice further elevate Richemont's influence as a shareholder in Farfetch among other Farfetch's shareholders, board of directors, and senior management.

CMA's conclusion

50. The CMA believes that in light of its shareholding and role as a significant minority shareholder, the Voting Commitment Deed, its status and expertise in the luxury and fashion industry, its close relationship with and [X] Farfetch's

⁷³ Merger Notice, paragraph 75.

⁷⁴ See [Farfetch's presentation to investors on 24 August 2022](#); and [Farfetch's presentation to investors on 1 December 2022](#). Analyst reports seen by the CMA also highlight that Farfetch is seeking to expand into hard luxury and that the Partnership would enable Farfetch to add relevant hard luxury brands to the Farfetch Marketplace. See Merger Notice, Annexes 319-340, 343, 345, 349, 868, 873, 882-883, 896-897, 902, 908, 911-912, 931, 952, 966, 981, 984, 988-989, 998, 1031, 1059, 1072, 1078, 1098, and 1109.

⁷⁵ Merger Notice, Annex 89.

⁷⁶ Agreed form Richemont Committed Facility. Merger Notice, Annex 206.

⁷⁷ The Parties noted that as Farfetch is a publicly traded company, there is not a static ownership structure, but rather a constantly changing ownership structure, reflecting the trade by market participants of shares in Farfetch. Merger Notice, paragraph 64.

⁷⁸ Included in the [X] signed by the Parties as part of the Partnership on 24 August 2022. Merger Notice, Annex 204.

majority shareholder and CEO, and its role as an important supplier and customer of the Farfetch businesses, Richemont would have the ability to exercise material influence over Farfetch as a result of the Partnership.

CMA's conclusion on relevant merger situation

51. On the basis of the above, the CMA believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

COUNTERFACTUAL

52. The CMA assesses a transaction's impact relative to the situation that would likely prevail absent the transaction (ie the counterfactual).⁷⁹
53. The Parties submitted that the relevant counterfactual is the prevailing conditions of competition. According to the Parties, this would mean that YNAP [X] in the online multi-product, multi-brand retail supply of personal luxury goods. Specifically, the Parties submitted that YNAP would continue to [X] to compete as a 1P player in an environment in which luxury and fashion brands [X] to work with 3P players. In addition, YNAP would have to either [X].⁸⁰
54. In determining the appropriate counterfactual, the CMA's analysis is usually not carried out to the same level as in the competitive assessment.⁸¹ This is because the counterfactual is not intended to be a detailed description of the conditions of competition that would prevail absent the Partnership, with those conditions being better considered in the competitive assessment.⁸² Accordingly, the CMA has considered the Parties' submissions on YNAP's competitive strength in its competitive assessment of the effects of the Partnership.
55. On the basis of the Parties' submissions and the evidence received during its investigation (described and discussed in the **Competitive Assessment** section), the CMA believes that the relevant counterfactual is the prevailing conditions of competition and has considered any possible changes in YNAP's competitive strength in its competitive assessment, where relevant.

⁷⁹ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 3.1.

⁸⁰ Merger Notice, paragraphs 58 and 422.

⁸¹ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 3.6.

⁸² [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 3.7.

COMPETITIVE ASSESSMENT

56. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.⁸³ Horizontal unilateral effects are more likely when the merging parties are close competitors.
57. The Parties overlap in (a) the online multi-product, multi-brand retail supply of personal luxury goods in the UK and elsewhere, and (b) the supply of e-commerce services in the UK and elsewhere.⁸⁴

Horizontal unilateral effects in the online multi-product, multi-brand retail supply of personal luxury goods

58. The CMA has investigated whether it is or may be the case that the Partnership may be expected to result in an SLC in relation to horizontal unilateral effects in the online multi-product, multi-brand retail supply of personal luxury goods in the UK. In its assessment, the CMA has considered the (a) frame of reference, (b) market structure, (c) closeness of competition between the Parties, and (d) competitive constraints on the Merged Entity.

Frame of reference

59. Market definition provides a framework for assessing the competitive effects of a transaction and involves an element of judgement.⁸⁵ In cases involving differentiated products, such as the present case, there is often no ‘bright line’ that can or should be drawn. Rather, it can be more helpful to describe the constraint posed by different categories of products or suppliers as sitting on a continuum between ‘strong’ and ‘weak’. Accordingly, the CMA will generally not come to finely balanced judgements on what is ‘inside’ or ‘outside’ the market. In addition, not every firm ‘in’ a market will be equal, and the CMA will assess how closely the transacting parties compete, and the constraint posed by firms ‘outside’ the market will also be carefully considered.⁸⁶
60. The Parties submitted that the most appropriate product frame of reference is the retail supply of personal luxury goods (including mono-brand, multi-brand, online and offline retailers, and pre-owned goods), but acknowledged that the narrowest candidate frame of reference is the online retail supply of personal

⁸³ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 4.1.

⁸⁴ See **Parties** section for an explanation of the Parties’ businesses.

⁸⁵ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 9.4.

⁸⁶ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 9.4.

luxury goods. The Parties also noted that ‘luxury’ is a fluid concept, with blurred boundaries between and within ‘luxury’ and other categories.⁸⁷

61. In its review of the *Richemont/YOOX/Net-a-Porter* merger, the CMA considered the impact of that transaction on the retail of personal luxury goods through online multi-brand outlets including both premium and permanent discount websites without any further sub-segmentation (eg by product type), in line with overlaps between the merging parties in that case.⁸⁸
62. The CMA considered that it was appropriate to use the same frame of reference in this investigation for the reasons set out in its previous decision and on the basis of the Parties’ internal documents and third-party evidence the CMA received during its investigation into the Partnership. This evidence indicated that online multi-product, multi-brand retail suppliers of personal luxury goods were most closely and consistently monitored by the Parties and were considered to be the strongest competitors to the Parties by both customers and competitors.⁸⁹ Where relevant, the CMA has nevertheless taken into account any competitive constraints from luxury and fashion brands’ online direct-to-consumer (**DTC**) channels and brick-and-mortar stores.
63. As regards the geographic frame of reference, the Parties submitted that the CMA’s assessment should take into account competitive constraints from sources of personal luxury goods located in at least the European Economic Area (**EEA**) as (a) a large proportion of shipments by, for example, [X], [X], and [X] to UK consumers are made from outside the UK, (b) consumer preferences generally do not vary between the UK and EEA, (c) consumers compare offers from multiple outlets, including from outside the UK, (d) delivery costs and times from the EEA are not prohibitive, and (e) luxury and fashion outlets typically operate on a EEA-wide, if not global, scale.⁹⁰
64. In its review of the *Richemont/YOOX/Net-a-Porter* merger, on a cautious basis, the CMA considered the impact of that transaction on the retail of personal luxury goods through multi-product, multi-brand outlets with an online presence in the UK.⁹¹
65. The CMA considered it appropriate to use the same geographic frame of reference as in the *Richemont/ YOOX/Net-a-Porter* merger for the reasons set out in that decision and based on the evidence reviewed during its investigation into the Partnership. Specifically, the Parties’ internal documents

⁸⁷ Merger Notice, paragraphs 218-219.

⁸⁸ [Richemont/YOOX/Net-a-Porter](#), paragraph 61.

⁸⁹ See evidence set out in **Closeness of competition** and **Competitive constraints** sections.

⁹⁰ Merger Notice, paragraphs 225-257.

⁹¹ [Richemont/YOOX/Net-a-Porter](#), paragraph 70.

show they consider consumer behaviour and the competitive conditions within the UK specifically.⁹² Third-party evidence also indicates that having a presence in the UK (such as having a UK based entity, UK website, and/or UK warehouses) offers a competitive advantage compared to suppliers based in the EEA.⁹³ However, where relevant, the CMA has considered any competitive constraints from competitors based in the EEA.

66. The CMA has therefore considered the impact of the Partnership in the online multi-product, multi-brand retail supply of personal luxury goods in the UK.

Market structure

67. The Parties provided total market size and share of supply estimates for themselves and their competitors in the UK, in 2021, based on gross merchandise value (**GMV**).^{94, 95} These estimates for the online multi-product, multi-brand retail supply of personal luxury goods (including pre-owned goods) are provided in **Table 1** below.⁹⁶

Table 1: Parties’ estimated shares of supply for the online multi-product, multi-brand retail supply of personal luxury goods in the UK in 2021⁹⁷

	GMV estimates 2021, GBP millions	%
Farfetch ⁹⁸	[X]	[10-20]%
YOOX Net-a-Porter Group ⁹⁹	[X]	[20-30]%
Merged Entity	[X]	[30-40]%
Selfridges	[X]	[10-20]%
Matchesfashion	[X]	[5-10]%

⁹² Merger Notice, Annexes 35, 123, 565, 568-569, 572, 791-792, 795, 798, 801, 803-804, 806, 808, 821.

⁹³ Note of call with a competitor on 12 January 2023, paragraph 17; Response by a competitor to the CMA competitor questionnaire.

⁹⁴ GMV is the total value of orders processed, excluding returns, cancellations and allowances, and net of discounts. The Parties stated that GMV is preferred over revenue to permit comparison of the position of suppliers with different business models. The Parties are not aware of other metrics that could be used for share of supply calculations that would be more suitable to account for the differences in the Parties’ and competitors’ business models, as relying on revenues instead of GMV would significantly understate Farfetch’s market share. Merger Notice, Annex 37.

⁹⁵ The Parties’ GMV is calculated from the Parties’ own data. Segment size estimates were based on Bain-Altgamma estimates. Competitor GMV estimates are the Parties’ best estimates informed by various sources, including publicly available sources (ie ecommercedb, company accounts and other sources such as Businesslive, CNBN, Companies house, Euromonitor reports, FashionUnited, Highsnobiety, Similarweb, Statista, WWD, ZoomInfo), and the Parties’ business insight. Merger Notice, Annex 37.

⁹⁶ The CMA notes that the shares of supply in **Table 1** are estimates, and therefore each individual competitor GMV figure is unlikely to be accurate. However, based on third-party evidence, the CMA considers that the share of supply estimates for the Parties themselves to be broadly accurate, even if some third-party shares are either over- or underestimated.

⁹⁷ The CMA notes that while some of the listed suppliers may also have offline offerings, the GMV estimates provided are only for the online portion of the suppliers business.

⁹⁸ Of which the shares of supply can be broken down by: Farfetch Marketplace ([10-20]%), Browns ([0-5]%), Stadium Goods ([0-5]%). Does not include shares for Watchfinder & Co, given its focus on pre-owned watches.

⁹⁹ Of which the shares of supply can be broken down by: Net-a-Porter ([10-20]%), Mr Porter ([0-5]%), The Outnet ([0-5]%), YOOX ([0-5]%).

Harrods	[X]	[5-10]%
Mytheresa	[X]	[5-10]%
END	[X]	[5-10]%
StockX	[X]	[5-10]%
Flannels	[X]	[0-5]%
Harvey Nichols	[X]	[0-5]%
Brand Alley	[X]	[0-5]%
Ssense	[X]	[0-5]%
Liberty	[X]	[0-5]%
Fenwick	[X]	[0-5]%
Other	[X]	[5-10]%
Total	[X]	100%

Source: Parties' estimates of shares of supply and CMA analysis.

Note: Numbers may not add up to 100% due to rounding. Includes pre-owned goods estimates. The CMA has excluded the large 'Other multi-brand' and 'Other pre-owned multi-brands' categories included by the Parties in their estimates. The CMA has also excluded some third parties which either did not consider themselves to be present in the retail supply of personal luxury goods, third parties the CMA did not consider to be present based on desk research, or which only sell personal luxury goods relating to one product category, such as beauty.

68. The CMA considers that the suppliers listed above impose varying degrees of competitive constraint on the Parties. This is discussed from paragraph 77.
69. The share of supply estimates provided by the Parties indicate that, post-Partnership, the Merged Entity will become the largest online multi-product, multi-brand retail supplier of personal luxury goods with a share of supply of [30-40]%, including a sizeable increment of [10-20]%. Given the uncertainty around the total market size and the fluid nature of what constitutes personal luxury goods, the CMA has used these shares of supply as a starting point and has considered other sources of evidence as to the Parties' closeness and the other competitive constraints on the Parties (and thus on the Merged Entity).

Closeness of competition

70. The Parties submitted that they are not close competitors since they have significant differences in their customer bases and business models, and a relatively low degree of competitive interaction.¹⁰⁰ As noted in paragraph 53, the Parties also submitted that YNAP would become [X] in future.
71. The CMA considers that the evidence received during its investigation shows that the Parties are close competitors in the online multi-product, multi-brand retail supply of personal luxury goods in the UK. In particular:
- (a) Internal documents of the Parties show that they consider each other to be a close competitor when monitoring their commercial performance

¹⁰⁰ Merger Notice, paragraph 283.

and the competitive landscape.¹⁰¹ For example, one Farfetch document referred to Net-a-Porter (one of the YNAP Online Retailers) as Farfetch's biggest competitor, and as the most prevalent competitor globally and particularly strong in the UK.¹⁰² Similarly, in internal documents Richemont refers to Farfetch as a direct competitor, notes it expected there to be a head-to-head competition between YNAP and Farfetch in the period 2020/23, with both growing at a similar pace and faster than the market, and [redacted].¹⁰³

- (b) The vast majority of third parties (including competitors and customers) that responded to the CMA's questionnaires indicated that the Parties closely compete with each other.¹⁰⁴ In particular, nearly half of respondents thought Farfetch Marketplace's closest competitor was Net-a-Porter, some thought it was Mr Porter,¹⁰⁵ many respondents thought Net-a-Porter's closest competitor was Farfetch Marketplace and one thought it was Browns.¹⁰⁶
- (c) The Parties provided some brand overlap analysis (the **Brand Overlap Analysis**) which indicated that there was a high degree of overlap in the brands sold by the Parties, particularly those listed on Net-a-Porter, Mr Porter and The Outnet overlapping with the Farfetch Marketplace.¹⁰⁷ The CMA notes that this type of analysis does not take into account the nature and range of products sold, and therefore the Brand Overlap Analysis has been considered in conjunction with other evidence.
- (d) The Parties also provided diversion ratios calculated from a consumer survey (the **Consumer Survey**) conducted by the Parties. While the CMA placed less evidentiary weight on this piece of evidence,¹⁰⁸ it generally aligns with the above evidence that the Parties are close competitors. For example, diversion ratios from the Farfetch Marketplace to the YNAP Online Retailers was [10-20]%.¹⁰⁹ The diversion ratio

¹⁰¹ For example, see Merger Notice, Annexes 35, 50, 123, 569, 565, 792, 795, 798, 801, 803-806, 808-809, 811-812, 814-815, 818-819, and 821.

¹⁰² Merger Notice, Annex 50.

¹⁰³ Merger Notice, Annexes 734, 814-815 and 821.

¹⁰⁴ Only one respondent did not consider the Parties as close competitors.

¹⁰⁵ See footnote 119 for the third parties listed as being the closest competitor to Farfetch Marketplace.

¹⁰⁶ See footnote 120 for the third parties listed as being the closest competitor to Net-a-Porter.

¹⁰⁷ For example, of the brands sold on Net-a-Porter, Mr Porter and the Outnet, the Farfetch Marketplace overlapped with [50-60]%, [50-60]% and [60-70]% of brands respectively.

¹⁰⁸ The CMA has placed less weight on the results of the Consumer Survey given that, amongst other factors, (a) consumer opinions collected in March 2021 during the global pandemic may not be predictive of their purchasing behaviour following the anticipated merger in 2023, (b) while in line with general best practice guidance on surveys, in this case anchoring to the last product(s) purchased by the consumer may overestimate the diversion to brands' online DTC channel and/or online suppliers which focusses on one product category (eg watches and beauty), when the factor that differentiates the Parties' is the multi-brand nature of their offering, and (c) the response rates for some of the surveys was low.

¹⁰⁹ Merger Notice, Annex 239.

proxies calculated using Google Search Data provided by the Parties also broadly aligned with these results.¹¹⁰

72. The CMA notes that other evidence reviewed during its investigation points to there being a degree of differentiation between the Parties' businesses. For example, in the Consumer Survey, diversion from the YNAP Online Retailers to the Farfetch Marketplace ranged from [5-10]% to [5-10]%.¹¹¹ In addition, some third parties told the CMA that certain YNAP Online Retailers (ie Net-a-Porter and Mr Porter) focus more on curation whereas the Farfetch Marketplace lists a large number of products and brands,¹¹² that they cater to different age groups or customers,¹¹³ and that they offer different service levels.¹¹⁴ The CMA considers, however, that this type of differentiation is common in the personal luxury goods retail market and does not preclude the Parties from being close competitors.
73. Finally, the CMA has also received evidence suggesting that YNAP Online Retailers' position in the online, multi-product, multi-brand retail supply of personal luxury goods has been challenged by competitors over time, and that a transition to a hybrid 1P/3P business model was considered necessary to accommodate ongoing market developments.¹¹⁵ However, the CMA does not consider that the internal documents and other evidence provided by the Parties and third parties is sufficient to support a finding that YNAP Online Retailers would be a materially weaker competitor in future.¹¹⁶
74. On this basis, the CMA considers that the Parties are currently close competitors in the online multi-product, multi-brand retail supply of personal luxury goods in the UK, and would continue to compete closely in the foreseeable future.

Competitive constraints

75. The Parties submitted that the retail supply of personal luxury goods is a crowded and fragmented competitive space, and that they compete with a variety of players, including (a) other online multi-product, multi-brand players

¹¹⁰ Merger Notice, Annex 27. The CMA has placed less evidentiary weight on this evidence, given that the Parties have not provided the methodology underlying this analysis to allow the CMA to verify the results presented.

¹¹¹ Merger Notice, Annex 239.

¹¹² Note of call with a brand on 19 December 2023, paragraph 23; Note of call with a brand on 4 January 2023, paragraph 17.

¹¹³ Note of call with a brand on 19 December 2023, paragraph 23; Note of call with a brand on 4 January 2023, paragraph 17.

¹¹⁴ Note of call with a competitor on 12 January 2023, paragraph 29.

¹¹⁵ Merger Notice, Annexes 3, 720, 729, 734, 821.

¹¹⁶ For example, a Richemont/YNAP internal document setting out the strategic plan for the YNAP Online Retailers for the period [] states that, despite losing sales to competitors and certain technology bottlenecks, YNAP remains in a solid position, continues to grow, and has important assets to compete in the market (such as []). Merger Notice, Annex 734.

(eg Matchesfashion, Mytheresa, etc.), (b) the DTC channels of luxury and fashion brands (eg Gucci stores and Gucci.com, Celine stores and Celine.com, etc.), and (c) the in-store and online offering of department stores (eg Selfridges, Harrods, Harvey Nichols and Flannels). The Parties further submitted that emerging categories of players (eg aggregators, personal shoppers, influencers) and new entrants (eg Zalando, Amazon) also increase competition for customer wallets.¹¹⁷

76. The CMA has considered the constraint from each of these different supplier groups by looking at the constraint from (a) other online multi-product, multi-brand retail suppliers of personal luxury goods, including online players, the online offering of department stores, as well as new entrants, (b) luxury and fashion brands' online DTC channel, and (c) brick-and-mortar stores.

Other online multi-product, multi-brand retail suppliers of personal luxury goods

77. Consistent with the Parties' submissions, the CMA considers that the evidence received during its investigation indicates that the Parties are currently constrained by other online multi-product, multi-brand retail suppliers, including online players, department stores' online offering (eg websites, mobile applications), and new entrants. For example:

- (a) Shares of supply (presented in **Table 1**) indicate that there are a number of competitors active in this space, including five with shares of supply in excess of 5%, from which there will be at least some competitive constraint exerted.
- (b) Third parties that responded to the CMA's questionnaires indicated that:
 - (i) Existing competitors compete closely with the Parties, for example most competitors thought they competed closely with the Parties, and some thought they occasionally competed with the Parties.¹¹⁸
 - (ii) Nearly half of the respondents (competitors and luxury and fashion brands) thought Farfetch Marketplace's closest competitor was a third party,¹¹⁹ and the majority of respondents thought Net-a-Porter's closest competitor was a third party.¹²⁰

¹¹⁷ Merger Notice, paragraph 9(b).

¹¹⁸ One competitor submitted that it did not compete with the Parties.

¹¹⁹ The third-party closest competitors listed for the Farfetch Marketplace included Matchesfashion, Mytheresa, Ssense, Flannels, Selfridges, Harrods, Vestiaire Collective, and Miinto.

¹²⁰ The third-party closest competitors listed for Net-a-Porter included Matchesfashion, Selfridges, Mytheresa, END., Ssense, The Rake, and Vestiaire Collective.

- (iii) Some competitors highlighted their expansion or entry plans in the retail supply of personal luxury goods in the UK.^{121, 122}
- (c) Third parties indicated that i) there are examples of new entrants in the UK, such as Flannels,¹²³ and ii) luxury and fashion brands will typically distribute their personal luxury goods through a number of online multi-product, multi-brand retail suppliers in the UK.¹²⁴
- (d) The Parties' internal documents indicate that they also frequently monitor competitors such as:
 - (i) Other online multi-product, multi-brand retail suppliers of personal luxury goods.¹²⁵ Competitors that appeared more frequently in Farfetch's internal documents and who were often indicated as 'top competitors' included Matchesfashion, Mytheresa, Ssense, Luisaviaroma and others. Similarly, competitors that often appeared in Richemont's internal documents included Matchesfashion, Mytheresa, Ssense, Luisaviaroma, Moda Operandi and 24 Serves. These documents also refer to Zalando, Asos and Amazon in respect to fashion products.¹²⁶
 - (ii) Department stores with online offerings such as Selfridges, Harvey Nichols, Harrods, Flannels/House of Fraser, and Liberty.¹²⁷ Specifically, Flannels was identified by Farfetch as the second biggest competitor in the UK after Net-a-Porter, as it has emerged as a key competitor in the UK.¹²⁸
- (e) The Parties' Brand Overlap Analysis demonstrates that many of the brands on the YNAP Online Retailers and the Farfetch Marketplace were

¹²¹ For example, a competitor said it was investing to make its fashion store more attractive to luxury brands. Another competitor stated it would be expanding its luxury mix in the next 3-5 years with significant growth planned for its digital business. In addition, another competitor stated that it will continue to seek to expand the range and volume of products from the brands (including high-end/luxury brands) it currently stocks as well as seek to attract new brands (both, for their online and brick-and-mortar business), and a further competitor said it has considerable plans to expand in the UK personal luxury goods space by leveraging marketplace opportunities as well as strong working relationship with luxury and fashion brands.

¹²² The CMA notes that respondents generally thought there were barriers to entering and expanding in the market. For example, the majority of competitors thought there were barriers to entering and expanding in this market. However, based on the entry and expansion plans identified by third parties, the CMA has placed more weight on these plans than the barriers to entry and expansion identified.

¹²³ Note of call with a competitor on 13 January 2023, paragraphs 16 and 24.

¹²⁴ Note of call with a brand on 19 December 2022, paragraphs 7-9; Note of call with a brand on 4 January 2023, paragraph 12; Responses by all brands that responded to the CMA's questionnaire, question 4(c).

¹²⁵ Merger Notice, Annexes 35, 50, 123.

¹²⁶ Merger Notice, Annexes 565, 568-569, 572, 596, 633, 635, 667, 716, 720, 725, 729, 734, 791-792, 795, 801, 803, and 808.

¹²⁷ Merger Notice, Annexes 35, 50, 123, 569, 795, 801, 803, and 808.

¹²⁸ Merger Notice, Annex 50.

also found on online third-party sites such as Matchesfashion, Selfridges, Harrods, Ssense, Mytheresa, and Luisaviaroma,¹²⁹ among others.

78. The CMA considers that the evidence indicates the Parties appear to be constrained by a range of online multi-product, multi-brand retail suppliers of personal luxury goods in the UK including Matchesfashion, Mytheresa, Flannels, Selfridges, Harrods, Ssense, and Luisaviaroma, among others.

Constraint from brands' online DTC channel

79. The CMA considers that the evidence received during its investigation shows that the Parties are also constrained by luxury and fashion brands' online DTC channels:

- (a) Third-party evidence indicates that:
- (i) Half of the luxury and fashion brands that responded to the CMA's questionnaire thought they competed closely with the Parties, and some brands thought they occasionally competed with the Parties.¹³⁰ For example, a luxury and fashion brand told the CMA that customer acquisition through online search is an area where online multi-product, multi-brand retail suppliers and brands' online DTC channel 'compete heavily'.¹³¹
 - (ii) Most online multi-product, multi-brand retail suppliers that responded to the CMA's written questionnaires thought they competed closely with luxury and fashion brands' online DTC channel, and some thought they occasionally competed with brand's online DTC channel.
 - (iii) A number of brands and online multi-product, multi-brand retail suppliers, as well as suppliers of e-commerce services consulted by the CMA noted that brands are increasingly moving online and looking to sell their goods through their online DTC channels. They also highlighted that this trend is expected to continue in the foreseeable future, as more luxury and fashion brands progressively digitalise their DTC channels.¹³²

¹²⁹ Ranging from [10-20]% to [20-30]% overlap with the third parties listed for YNAP Online Retailers (excluding YOOX), and [10-20]% to [10-20]% overlap with the same third parties for Farfetch Marketplace.

¹³⁰ Some brands did not think they compete with the Parties, and see multi-product, multi-brand retail suppliers of personal luxury goods as complementary to their brands' offering.

¹³¹ Note of call with a brand on 19 December 2022, paragraph 20.

¹³² Note of call with a brand on 19 December 2022, paragraph 14; Note of call with a brand on 4 January 2023, paragraphs 6, 9, 11 and 16; Note of call with a department store on 13 January 2023, paragraphs 10 and 14;

- (b) The Parties' internal documents also monitored brands' online DTC channels directly when considering the competitive landscape (albeit to a lesser extent than other online multi-product, multi-brand channels) and note that this channel is growing fast.¹³³
- (c) The Consumer Survey indicates that [§<] consumers would switch to a brands' online DTC channel if a Parties' online offering was unavailable.

80. The CMA considers that luxury and fashion brands' online DTC channels collectively compete with, and provide a competitive constraint, on the Parties. However, in light of the evidence outlined above, this constraint appears weaker than that of other online multi-product, multi-brand retail suppliers of personal luxury goods.

Constraint from brick-and-mortar stores

81. The CMA considers that the evidence received during its investigation shows that the Parties are also constrained by brick-and-mortar personal luxury goods stores:

- (a) Third-party evidence indicates that the majority of retail supply competitors thought online multi-product, multi-brand retail suppliers competed with multi-product, multi-brand brick-and-mortar stores, and some thought they occasionally competed. Specifically, a department store told the CMA that most consumers will typically shop at both brick-and-mortar stores and online-only retailers.¹³⁴ Another department store consulted by the CMA noted that brick-and-mortar shops and online retail provide alternatives for consumers to access personal luxury goods and, as such, it considers online multi-product, multi-brand retail suppliers 'as competitors in-store and online'.¹³⁵
- (b) The Parties' internal documents, when considering the competitive landscape, mainly reference online offerings. For example, when Selfridges is identified, it is specifically the online shop (Selfridges.com) which is referred to.¹³⁶ However, other internal documents also identify brick-and-mortar stores as their competitors, such as 'department stores (online or offline)' or 'Dover Street Market'.¹³⁷

Note of call with a supplier of e-commerce services on 20 December 2022, paragraph 20; Note of call with a supplier of e-commerce services on 4 January 2023, paragraph 14.

¹³³ Merger Notice, Annexes 10, 35, 87, 123, 808, 815, 818, and 821.

¹³⁴ Note of call with a department store on 13 January 2023, paragraph 17.

¹³⁵ Note of call with a department store on 13 January 2023, paragraph 21.

¹³⁶ Merger Notice, Annex 123.

¹³⁷ Merger Notice, Annex 50.

- (c) The Parties' Consumer Survey shows that some consumers would switch to offline channels such as brick-and-mortar stores if a Party's website was unavailable.

82. The CMA considers that brick-and-mortar stores collectively compete with, and provide a competitive constraint, on the Parties. However, in light of the evidence outlined above, this constraint appears weaker than that of other online multi-product, multi-brand retail suppliers of personal luxury goods.

Conclusion on competitive constraints on the Merged Entity

83. Based on the evidence set out above, the CMA considers that post-Partnership the Parties will be constrained by other online multi-product, multi-brand retail suppliers of personal luxury goods, and to an extent by luxury and fashion brands' online DTC channel and brick-and-mortar stores in the UK.

Conclusion on horizontal unilateral effects

84. For the reasons set out above, the CMA believes that while the Parties are close competitors, there are sufficient competitive constraints on the Merged Entity primarily from online multi-product, multi-brand retail suppliers but also from other players such as luxury and fashion brands' online DTC channel and brick-and-mortar stores. Accordingly, the CMA found that the Partnership does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the online multi-product, multi-brand retail supply of personal luxury goods in the UK.

Other theories of harm

Horizontal unilateral effects in the supply of e-commerce services

85. Farfetch (with FPS) and Richemont/YNAP (with OFS) are active in the supply of e-commerce services to fashion and luxury brands and retailers wishing to offer their own websites and mobile applications to consumers in the UK and elsewhere. The CMA has therefore considered whether the Partnership would give rise to horizontal unilateral effects in the supply of e-commerce services in, at least, the UK.

86. Evidence received by the CMA indicates that the Parties are relatively close competitors in the supply of these services.¹³⁸ However, evidence reviewed by the CMA also indicates that YNAP's presence in this space is currently limited and there are a number of large non-specialist suppliers of e-commerce

¹³⁸ Merger Notice, Annexes 10, 50, 125. Note of a call with a competitor on 20 December 2022, paragraphs 10-11; Note of a call with a department store on 13 January 2023, paragraphs 15 and 24.

services who currently serve a range of fashion and luxury retail customers which would continue to constrain the Merged Entity.¹³⁹ Further, evidence received by the CMA indicates that luxury and fashion customers can and increasingly do build e-commerce capabilities in-house.¹⁴⁰

87. On this basis, the CMA has considered that no plausible competition concerns would arise in relation to horizontal unilateral effects in the supply of e-commerce solutions in, at least, the UK as a result of the Partnership.

Input foreclosure of rival online multi-product, multi-brand retail suppliers of personal luxury goods

88. A few competitors raised input foreclosure concerns around access to Richemont Maisons' products by other online multi-product, multi-brand retail suppliers of personal luxury goods post-Partnership.¹⁴¹ Based on the evidence provided by the Parties and third parties, the CMA has found that no plausible competition concerns could arise as a result of input foreclosure. Specifically, the CMA found that Richemont is vertically integrated pre-Partnership, with only one Maison available as an e-concession on the Farfetch Marketplace. Further, a material proportion of the GMV generated by Richemont from sales to UK consumers is accounted for by rival suppliers.

Tying strategies affecting rival online multi-product, multi-brand retail suppliers of personal luxury goods

89. A competitor raised the concern that the Merged Entity may make luxury and fashion retailers' access to Richemont Maison products conditional on the adoption of the FPS commerce technology stack.¹⁴² According to this competitor, such a tying strategy would impact the ability of rival e-commerce services supplier to compete for luxury and fashion retailers post-Partnership. No other third party raised a similar concern, and the CMA has seen no evidence to support such a tying strategy. On this basis, the CMA has found that no plausible competition concerns would arise in respect of such a tying strategy as a result of the Partnership.

¹³⁹ Merger Notice, Annexes 10, 50, 95, 125, 734. Note of call with a competitor on 20 December 2022, paragraphs 6 and 13; Note of call with a competitor on 4 January 2023, paragraphs 8, 13, 17 and 20. Note of a call with a department store on 13 January 2023, paragraphs 25-26.

¹⁴⁰ Note of call with a brand on 19 December 2022, paragraph 25; Note of call with a competitor on 20 December 2022, paragraphs 6, 9 and 12-13; Note of call with a department store on 13 January 2023, paragraphs 29-30; Note of a call with a department store on 13 January 2023, paragraphs 22-23.

¹⁴¹ Responses by competitors to the CMA's competitor questionnaire and competitor email.

¹⁴² Response by a competitor to the CMA's competitor email.

THIRD-PARTY VIEWS

90. As part of its investigation into the Partnership, the CMA contacted a number of customers and competitors of the Parties, including a variety of luxury and fashion brands, different online multi-product, multi-brand retail suppliers of personal luxury goods, department stores (with in-store and online offerings), as well as suppliers of e-commerce services. Third party evidence relevant to horizontal unilateral effects in the online multi-product, multi-brand retail supply of personal luxury goods and other theories of harm have been reflected in the CMA's assessment, as set out above.

DECISION

91. Consequently, the CMA does not believe that it is or may be the case that the Partnership may be expected to result in an SLC within a market or markets in the UK.
92. The Partnership will therefore not be referred under section 33(1) of the Act.

Jenny Sugiarto
Director, Mergers
Competition and Markets Authority
29 March 2023

ENDNOTE

ⁱFootnote 53 should be read as follows: 'Richemont will have the right to nominate a non-executive (subject to certain requirements) member to the Farfetch board of directors in the event the put-and-call option mechanism is exercised.'