Completed acquisition by Facebook, Inc (now Meta Platforms, Inc) of Giphy, Inc.

Summary of Final Report

Notified: 30 November 2021

Overview of our findings

1. The Competition and Markets Authority (**CMA**) has found that the merger between Facebook, Inc. (**Facebook**) and GIPHY, Inc. (**GIPHY – together, the Parties**) (the **Merger**) has resulted or would result in a substantial lessening of competition (**SLC**) in social media and display advertising, harming social media users and businesses in the UK. Facebook, Inc. has recently been re-named Meta Platforms, Inc. but for the purposes of this report we have continued to refer to it as 'Facebook'.

2. On 12 August 2021, we announced our **Provisional Findings**, in which we provisionally concluded that the Merger would result in an SLC in social media and display advertising. Following a further period of consultation, we have now made our final decision, which we summarise here. The report and its appendices, which will be published together with or shortly after this summary, constitute the CMA's **Final Report**.

3. Facebook completed the acquisition of GIPHY on 15 May 2020, but has been required to hold the businesses separate since 9 June 2020, when the CMA imposed an Initial Enforcement Order (which was amended by a Variation Order on 29 June 2021). As explained in further detail below, we have decided that the only effective way to address the competition issues that we have identified is for Facebook to sell GIPHY, in its entirety, to a suitable buyer.

Who are the businesses and what services do they provide?

Facebook is by far the largest provider of social media and messaging services in the UK

4. Facebook offers various online products and services to customers in the UK. This includes popular social media and messaging platforms such as the Facebook app (also known as Facebook Blue), Instagram, Messenger and WhatsApp. Facebook is by far the largest provider of social media and messaging services in the UK, by number of users. Indeed, over 80% of UK internet users access at least one Facebook site per month. Such platforms are generally provided to users for no monetary cost. However, Facebook's platforms (in common with many other social media platforms) are multi-sided in nature, meaning that they supply services to two or more distinct, but related, customer groups. In Facebook's case, in addition to serving users, who use Facebook's social media and messaging platforms to connect with their friends and family, it also serves advertisers, who use Facebook's platforms to market their products to users, and in return, pay Facebook a fee.

5. Multi-sided platforms such as Facebook are often characterised by network effects, in that the value of the product for users on one side of the platform depends on the number of users either on the same side of the platform, or on the other side. For example, in Facebook's case, having a large user-base on its social media platforms makes it more attractive to advertisers. Facebook's business model, and the business model of other social media platforms, therefore relies on attracting and retaining users' attention (and gathering data about them), which they then use to sell advertising.

6. An important way of attracting users' attention is by offering engaging content and features. Social media platforms, including Facebook and its rivals (eg Snapchat, TikTok, Twitter), therefore compete to offer users interesting content and features to keep them engaged on their platform for longer. Some of these features and content are provided by the social media platforms, while other features and content are provided by external providers, or by the platforms' users themselves (eg photo-sharing on Instagram).

7. GIFs and GIF stickers, such as those provided by GIPHY, are popular features on social media and messaging platforms.

GIPHY is the world's leading provider of free GIFs and GIF stickers

8. GIPHY provides an online database and search engine that allows users to search and share GIFs and GIF stickers. A GIF (or video GIF) is a digital file that displays a short, looping, soundless video, while a GIF sticker displays an animated image comprised of a transparent (or semi-transparent) background which is placed over images or text (such as a Story on Instagram or Snapchat). We use the term 'GIF' to refer to both video GIFs and GIF stickers).

9. While the GIF file format was invented in the 1980s, the onset of social media provided an opportunity to reimagine the GIF as a part of modern internet culture. The main GIF libraries that are used today were launched less than ten years ago, and the popularity of GIFs has grown enormously since then. Every day, millions of users in the UK post content that includes a GIF.

10. GIPHY describes itself as the world's largest library of free GIFs and stickers. GIPHY offers its GIFs and GIF stickers to UK users both on its own website and app, and via Application Programming Interfaces (**APIs**) or Software Development Kits (**SDKs**) that allow apps (eg Snapchat, TikTok, Facebook, Instagram) to integrate GIPHY's GIF and GIF sticker databases. These integrations allow GIPHY to reach a wide audience, making it the second largest search engine after Google by number of searches.

11. Like Facebook, GIPHY's products are offered free of charge to users and companies using its APIs and SDKs, as well as on GIPHY's own website and app. While GIPHY's API partners do not pay for access to GIPHY's products, these products are important to some API partners as a tool for enhancing user engagement – in the UK alone, over a billion GIF searches are run by users each month on average using GIPHY's API integrations. From 2017 until May 2020, GIPHY generated revenues in the United States by offering brands and advertisers a 'Paid Alignment' service to align their GIFs with popular search terms (so that users see them first when searching for a GIF), or to insert them into GIPHY's trending feed, in exchange for payment. In the context of its acquisition of GIPHY, Facebook required the termination of all Paid Alignment activities.

Our assessment

Why are we examining this Merger?

12. The CMA's primary duty is to seek to promote competition, both within and outside the UK, for the benefit of UK consumers. Following an initial 'phase

1' investigation, the Merger was referred for a more in-depth 'phase 2' investigation on 1 April 2021. At phase 2, the CMA considers whether:

(a) there is a 'relevant merger situation' for the purposes of the Enterprise Act 2002,

(b) that relevant merger situation has resulted, or may be expected to result, in a substantial lessening of competition (**SLC**) within any market or markets in the UK for goods or services, and

(c) if so, whether remedial action should be taken, and if so, what action and by whom.

13. While both Facebook and GIPHY are US-based entities (and prior to the Merger, GIPHY's revenue-generating activities were limited to the US), the important question for the CMA is whether the Merger may have an impact on competition in the UK. This link to the UK is established by meeting one of two jurisdiction tests: (i) the turnover test (based on the target's turnover in the UK), and (ii) the share of supply test (requiring that the Parties together supply at least 25% of a particular good or service supplied in the UK, and there is an increment to the share of supply).

14. Facebook and GIPHY are both active in the UK, and provide services to UK users. In this case, we conclude that the Merger has resulted in the creation of a relevant merger situation on the basis of the share of supply test, as the Parties overlap in the supply of apps and/or websites that allow UK users to search for and share GIFs, in which the Parties have a combined share (by average monthly searches) of [50-60]% with an increment of [0-5]%.

How have we examined this Merger?

15. In deciding whether a Merger has resulted, or may be expected to result, in an SLC, the CMA must apply a 'balance of probabilities' standard. This means that the CMA must decide whether it is *more likely than not* that a Merger will result in an SLC.

16. To determine whether this is the case, we have gathered information from a wide variety of sources, using our statutory powers to ensure that we have as complete a picture as possible under the constraints of the statutory timetable to understand the implications of this Merger on competition. The evidence we have gathered has been tested rigorously, and the context in which the evidence was produced has been considered when deciding how much weight to give it.

17. At phase 2, we have focused on two ways in which the Merger could give rise to an SLC. Both of these ‘theories of harm’ relate to the two-sided market for social media services and display advertising:

    (a) horizontal unilateral effects resulting from the loss of potential competition in display advertising; and

    (b) vertical effects on competition in the supply of social media arising from input foreclosure.

18. We conclude that the Merger is more likely than not to give rise to an SLC on both counts. This is discussed in further detail below.

What evidence have we looked at?

19. In assessing this Merger, we looked at a wide range of evidence that we considered in the round to reach our decision.

20. We examined the Parties’ own internal documents which show how they run their businesses and how they view their partners and their rivals in the ordinary course of business. Such internal documents can also be helpful in understanding the Parties’ plans for the future of their businesses. We undertook a widescale review having collected over 280,000 internal documents from the Parties.

21. We spoke to and gathered evidence from other market participants in the industry to understand better the competitive landscape for the provision of GIF libraries, including the GIF advertising model, and to get their views on the impact of the Merger. In particular, we spoke to the following categories of market players:

    (a) social media and messaging platforms;

    (b) providers of keyboard apps;

    (c) GIF providers;

    (d) investors and potential investors in GIPHY; and

    (e) advertising companies, advertising agencies, and brands familiar with GIPHY’s Paid Alignment advertising services.

22. We also considered the internal documents of certain social media and messaging platforms, and those of GIPHY’s key investors, in order to determine how others viewed the GIPHY business prior to the Merger and GIFs more generally, and how they reacted to the Merger.

23. We also calculated market shares. However, in markets such as the ones in which Facebook and GIPHY operate, there is a wide range of different products and offerings, and new features and products are introduced regularly. This can mean that it is difficult to define the precise boundaries of the 'market'. In these circumstances, when assessing the impact of the merger on competition, the CMA will consider evidence on market shares, if helpful, alongside evidence on how closely the merging parties compete (either currently or in the future). As well as the size of the Parties' market shares, our assessment of the extent to which Facebook and GIPHY have market power also took into account the stability of the relevant market shares, the strength of competitive constraints on the Parties, and the extent of past entry and exit from the relevant markets.

24. Finally, as well as looking at how competition works currently (and the Parties' current shares of the relevant markets), we recognise that markets, and in particular markets for digital products and services such as those offered by the Parties, change over time. Our assessment is therefore forward-looking and considers the Parties' plans for their businesses in future.

25. Following the announcement of our Provisional Findings in August 2021, the Parties provided submissions and further evidence in response. We also received submissions from third parties in response to our Provisional Findings, and followed up directly with a number of third parties to obtain supplementary information and to address specific issues raised by the Parties. We have carefully considered all new evidence and submissions and have taken them into account where appropriate in our Final Report.

What did this evidence tell us…?

… about market power?

26. Market power is typically used to refer to firms who have such strength in a particular market that they are able to influence the price of the goods or services that they sell (eg charging higher prices than they would be able to if an industry was more competitive). This could also be the case in relation to non-price factors such as quality of a good or service, or level of innovation. We therefore considered the relative strength of the Parties in the core markets in which they operate. For GIPHY, this is searchable GIF libraries, while for Facebook, this is social media and display advertising. In assessing this relative strength, we considered the other options available to the Parties' customers or users and whether they offer a good alternative to the Parties.

27. In relation to **searchable GIF libraries**, we have found that social media and messaging platforms have very limited choice of alternatives to GIPHY. Tenor (owned by Google) is GIPHY's only close competitor. GIPHY has a number of distinctive features that may make it particularly attractive to social media platforms, for example, the quality of its content, the sophistication of its search algorithm, its reach among distribution partners and the fact that, at the time of the Merger, GIPHY was the only significant provider of GIF-based advertising services. All of this points towards GIPHY having market power in the supply of searchable GIF libraries.

28. In relation to the supply of **social media**, our investigation has found that Facebook has significant market power. In particular, we considered the fact that the Facebook platforms make up by far the highest share of user time spent on social media in the UK (73% in 2020) and that other platforms tend to be accessed in addition to the Facebook platforms, rather than as an alternative to them. These findings are also consistent with the findings of the CMA's Online Platforms and Digital Advertising Market Study (the **Market Study**) published in July 2020.

29. Finally, in relation to **display advertising**, our view is that Facebook also has significant market power in display advertising in the UK. Display advertising is a form of digital advertising where advertisers pay online companies such as social media platforms to display their advertising on their web pages or mobile apps. Display advertising is an important industry in the UK, worth over GBP 7 billion in 2020. Our analysis shows that the Facebook platforms currently have a combined market share of around [40-50]%. Again, this is largely consistent with the findings of the Market Study.

…about what would have happened had the Merger not taken place?

30. In order to provide a comparator and determine the impact that the Merger may have on competition, we have considered what would have happened had the Merger not taken place. This is known as the counterfactual.

31. The Parties told us that it was likely that GIPHY would have become a significantly weakened business had it not been bought by Facebook. Our view is that, had the Merger not gone ahead, GIPHY would have continued to supply GIFs to social media platforms (including Facebook), as it had done before the Merger, and would have continued to innovate, develop its products and services, generate revenue and explore (with the financial and commercial support of investors) various options to further monetise its products. This would have been the case regardless of GIPHY's ownership (ie whether it operated independently, as it did before the Merger, or in the hands of an alternative purchaser). We consider that GIPHY had a number

of options for ensuring the ongoing funding of its business in the short and medium term in the absence of the Merger, including generating revenue through its Paid Alignment model, agreeing a fee for using its services on major social media platforms, obtaining additional funding from existing investors, or sale to an alternative purchaser.

32. We also noted the short-term impact that Coronavirus (COVID-19) had on GIPHY's business prior to the Merger. However, we have not seen any evidence showing that Coronavirus (COVID-19) would have had a long-term, structural impact on GIPHY's ability to innovate and generate revenue had the Merger not taken place.

33. We also considered what Facebook would have done had the Merger not taken place. As noted above, GIFs are an important driver of user engagement on social media and messaging platforms, including Facebook's platforms, and Facebook told us that a key part of its rationale for acquiring GIPHY was to ensure its continued access to a supply of GIFs in future. We have therefore assessed the alternative options available to Facebook to ensure continued availability of high-quality GIFs had the Merger not gone ahead, namely: (i) paying some form of platform fee or licence fee to GIPHY, (ii) relying more heavily on other GIF providers (eg Tenor), or (iii) building its own GIF library.

34. Following an assessment of the Parties' internal documents which discussed these options in some detail, our view is that it was likely that Facebook would have continued to procure GIFs from GIPHY had the Merger not taken place, at least in the short-term. We also consider that even if Facebook had developed its own GIF library, this would have been in the longer term and it would have continued to rely on GIPHY in the interim.

35. Our assessment of the effects of the Merger is therefore considered in comparison to a scenario in which, had the Merger not gone ahead, GIPHY would have continued to supply GIFs, innovate, develop its products and services, generate revenue and explore various options to further monetise its products, and Facebook would have continued to procure GIFs from GIPHY, at least in the short to medium term.

…about any horizontal effects of the Merger?

36. One of the potential concerns that we have investigated is whether the Merger could lead to horizontal unilateral effects as a result of loss of potential competition. What we mean by this is the possibility that the Merger could remove from the market a business that was competing, or had the potential to compete, with Facebook. In this case we are particularly

interested in whether GIPHY could have competed with Facebook in relation to display advertising in the UK. We describe this as 'horizontal' effects because, in this respect, Facebook and GIPHY would both be active at the same level of the supply chain (ie offering display advertising). We consider that GIPHY's Paid Alignment model competes closely with display advertising, such as that offered on Facebook's platforms, in particular because GIPHY's advertising model is typically used to raise brand awareness (as with display advertising), rather than to drive purchases of specific products or services (as with search advertising).

37. In some sectors, including fast-moving technology markets such as the one in which Facebook and GIPHY operate, an important aspect of how firms compete involves efforts or investments aimed at protecting or expanding their profits in the future.

38. One of GIPHY's key innovations was its Paid Alignment advertising proposition, which it first offered in 2017 in the US and which it was making efforts to expand. Under this model, advertisers paid GIPHY in exchange for GIF-based advertising. GIPHY had also entered into revenue-sharing agreements with certain social media partners in the US, under which GIPHY gave partners a share of its advertising revenues in exchange for the partners allowing GIPHY to run its Paid Alignment advertising on these partners' platforms. Paid Alignment was used by a number of leading international consumer brands, including Pepsi and Dunkin' Donuts, and was growing, both in terms of revenue and the number of advertisers using the service, until the Merger in May 2020. In the context of the Merger, Facebook required the termination of all GIPHY's Paid Alignment activities.

39. The Parties told us that GIPHY's advertising model was flawed for a number of reasons, including because GIPHY's user base was largely served through API integrations with social media platforms, it could not provide brands with helpful audience data and metrics, and it could not offer 'direct response' ads (where the user clicks on the ad to buy the product).

40. However, most of the advertisers that we spoke to were positive about their experience of working with GIPHY, and some of them told us that they had been able to monitor the effectiveness of their advertising with GIPHY to a level that they were satisfied with. This is also reflected in GIPHY's internal documents. Our investigation also found that there were a number of potential advantages to GIPHY's Paid Alignment model which may have outweighed its disadvantages – for example:

(a) The advertising (in the form of a GIF) is specifically selected by the user to express a particular idea or emotion to the recipient, which has the potential to make the ad very personal and impactful.

(b) Similarly, advertising through private messaging provides an air of credibility to the advertising, as it is shared by someone that you trust in a private forum.

(c) We also heard that an advantage of advertising using GIFs was that they operate on a loop, meaning that the ad might be seen by users a number of times.

(d) Finally, we note that messaging has historically been a difficult format for providers to use to generate revenue, as most forms of advertising significantly worsen the user experience. However, due to its GIF format, the Paid Alignment model of advertising is subtle and intrinsic to the message, rather than interrupting it. This is reflected in GIPHY's internal documents. Facebook's internal documents also discuss the importance of monetising messaging.

41. We also note from GIPHY's internal documents that GIPHY hoped to develop its Paid Alignment product and expand its offering internationally, including into the UK. Prior to the Coronavirus (COVID-19) pandemic, GIPHY was considering how to respond to significant interest from advertisers regarding international expansion.

42. Despite these plans for expansion, GIPHY's forecasts did not envisage becoming anything like the size or scale of Facebook in the medium term. However, given Facebook's significant market power in display advertising (as discussed above), the acquisition by Facebook of a potential entrant may be concerning, even if that potential entrant is expected to be relatively small.

43. Following our Provisional Findings, the Parties made submissions regarding some specific challenges that GIPHY faced in relation to its Paid Alignment offering. Having carefully considered these submissions, we are still of the view that, by removing GIPHY from the market, the Merger has removed a firm with pre-Merger activities that we consider were likely to be valuable in driving or influencing other companies' (including Facebook's) efforts in display advertising. GIPHY's efforts to innovate and monetise its services prior to the Merger were valuable, as they increased the likelihood of new innovations and products being made available in future, even allowing for the possibility that GIPHY's Paid Alignment model ultimately might not have been successful. This is the case both for those products and innovations

that GIPHY had already begun to develop itself or may have developed in future, and also for any developments that may have been made by Facebook in response to the possibility of competition from GIPHY, or from other social media platforms in partnership with GIPHY. By removing GIPHY as an independent competitor, the Merger has eliminated this form of 'dynamic' competition.

44. We consider that the loss of GIPHY as a potential competitor in display advertising is substantial in the light of:

(a) Facebook's significant market power in display advertising (as discussed above);

(b) GIPHY's strong position as a leading provider of an important social media engagement tool;

(c) GIPHY's efforts in recent years to monetise its services, using an innovative advertising model, which had the potential to compete against Facebook for display advertising revenues;

(d) Evidence that Facebook and other market participants were also interested in monetising the same or similar social media features;

(e) The fact that successful expansion into a multi-sided market such as display advertising can be magnified by network effects (eg GIPHY's Paid Alignment model could have generated additional revenues for Facebook's rival social media platforms, leading them to invest more in attracting new users; while if Facebook owns and controls GIPHY, it will be able to reinforce its strong position in this space); and

(f) The high barriers to entry in display advertising, demonstrated by very limited successful entry in the market since Facebook became market leader. GIPHY has already developed a large user base and begun to grow its advertising revenue, despite a number of challenges. Another potential competitor may face even more challenges in a world in which the two largest GIF providers, GIPHY and Tenor, are owned by two of the largest tech companies, Facebook and Google.

45. On the basis of the evidence we have seen, we therefore consider that the Merger will result in an SLC as a result of horizontal effects, in the form of a loss of potential competition in display advertising.

…about any vertical effects of the Merger?

46. As set out above, GIPHY allows apps (eg social media platforms such as Snapchat, TikTok, Facebook, Instagram) to integrate GIPHY's GIF and GIF sticker databases into their own platforms via an API or SDK free of charge. One of the potential concerns that we have investigated is whether Facebook could disadvantage its rivals in social media by limiting their access to GIPHY in some way, either by preventing them from accessing GIPHY at all, or allowing them to access GIPHY on worse terms than they did before the Merger. This is known as foreclosure. We describe this as 'vertical' effects because, in this respect, Facebook and GIPHY are operating at different levels of the supply chain (ie GIPHY is acting as an input into Facebook's, and its rivals', products).

47. Our assessment has focused on whether Facebook would have the **ability** and **incentive** to limit access to GIPHY in this way, and whether this 'foreclosure' would have an **effect** on the ability of rival apps to compete with Facebook in social media. We also specifically assessed whether Facebook would be able to disadvantage its rivals by reprioritising innovation and development of GIPHY's services towards the requirements of Facebook's own platforms rather than those of other social media platforms, or by requiring rival platforms to provide more data (eg on individual or aggregate user behaviour) as a condition of accessing GIPHY.

48. As discussed above, our assessment has shown that GIPHY has a number of distinctive qualities which mean that many social media platforms rely on it to facilitate user expression. Our assessment of the Parties' internal documents and our discussions with other players in the industry indicate that GIFs are an important feature for social media platforms (including Facebook), particularly in relation to encouraging user engagement. As noted above, GIFs are a popular feature of social media platforms, with the proportion of users posting content that included a GIF being over 25% on some platforms. We also found that there was only one other GIF provider offering a comparable service to GIPHY: Tenor, which is owned by Google. On this basis we consider that following the Merger, Facebook does have the ability to foreclose its rivals.

49. In determining whether Facebook has the incentive to foreclose, we have assessed the costs and benefits of this strategy for Facebook. We have found that there would be direct benefits of foreclosure to Facebook, in that reducing the engaging features available on a rival social media platform is likely to mean that users switch at least a proportion of their time to other platforms and that, due to Facebook's high share of the market, this is likely to be to a Facebook platform; this in turn may encourage their friends and

followers to switch too. We have also considered whether there would be a cost to Facebook of foreclosure, as by limiting access to GIPHY, Facebook would lose (at least partly) the benefit to GIPHY in having a wide pool of users (which makes it more attractive to content creators and to advertising partners). However, we have found that even if GIPHY were removed from all other platforms, the large user base of Facebook's platforms would mean that it would still be an attractive proposition for partners and creators. A foreclosure strategy targeting one or more specific rival platforms would have even fewer costs. On this basis we consider that Facebook would also have an incentive to foreclose its rivals from access to GIPHY.

50. Our view is that this strategy would have the effect of strengthening Facebook's significant market power in social media, and reducing the competition that it faces from others. On the basis of the evidence we have seen, we therefore conclude that the Merger will result in an SLC in social media as a result of vertical effects, in the form of input foreclosure.

…about any countervailing factors?

51. Where we have decided that a Merger could give rise to an SLC, we also consider whether there are any factors that might prevent or mitigate against that SLC from arising. These are known as countervailing factors. In this case, we focused on whether there could be any new entrants to the supply of searchable GIF libraries that could prevent an SLC from arising.

52. The evidence that we have collected shows that there are five main barriers to entering or expanding in relation to searchable GIF libraries, and on this basis a new entrant or an existing small provider would face considerable challenges in trying to grow or compete at scale:

(a) A large, high-quality content library;

(b) A sophisticated search engine;

(c) Scale and brand;

(d) A viable monetisation model; and

(e) Capital.

53. As described above, recent new entrants and smaller GIF providers have not to date been able to reach the same size and quality as GIPHY and Tenor.

54. Our assessment has concluded that it is not likely that entry or expansion of sufficient scale would occur in a timely manner in order to prevent or reduce the impact of an SLC arising as a result of this Merger.

How are we proposing to remedy the substantial lessening of competition we have found?

55. Where we conclude that a merger has resulted in, or may be expected to result in, an SLC, we are required to decide what, if any, action should be taken to remedy, mitigate or address that SLC, or any adverse effect resulting from the SLC.

56. Alongside our Provisional Findings, we published a Notice of Possible Remedies, in which we sought views on possible remedies to the SLCs that we had identified. The Notice set out our initial view that the only effective way to address the competition issues that we had identified was for Facebook to sell GIPHY, in its entirety, to a suitable buyer. In response, Facebook submitted its own alternative set of remedy proposals, which we have also assessed.

57. Facebook submitted the following remedy options:

(a) An ‘open access’ remedy, which would maintain access to GIPHY’s library to new and existing API partners.

(b) A ‘commingling’ remedy, which would remove the restriction contained in GIPHY’s current terms of service against commingling GIPHY search results with results of another GIF provider – Facebook submitted that this would enable a potential Paid Alignment provider to increase the attractiveness of its product by allowing it to intersperse GIPHY’s GIFs with its own ads.

(c) A white label licensing remedy, which would involve the creation and sale of a white label copy of GIPHY’s content library and a licence to use GIPHY’s search algorithm for five years.

58. In assessing possible remedies, we first seek to identify remedies that will be effective in addressing the SLCs that we have found. We then select the least costly remedy that we consider to be effective.

59. In this case, we have only found one effective remedy – the full divestiture of GIPHY. We did not consider that the remedies proposed by Facebook would be effective in addressing the SLCs. Facebook’s proposed remedies (as described above) are behavioural in nature (ie they would seek to regulate the ongoing behaviour of the merger parties) rather than structural (ie re-

establishing the structure of the market expected absent the merger). Structural remedies are normally preferable to behavioural remedies, as they address the adverse effects of the Merger at source. Although behavioural remedies may be suitable in certain cases, this Merger does not have such characteristics. In particular, the SLCs that we have found are dynamic in nature and are not time-limited, reducing the likelihood that a behavioural remedy would provide an effective and comprehensive solution. We also found a number of specific risks with Facebook's proposed remedy options, including their inability to comprehensively address the SLCs, the challenges in specifying Facebook's obligations, the risks of Facebook being able to circumvent these obligations, and the difficulties in monitoring and enforcing Facebook's compliance with these obligations. We therefore found that Facebook's remedy proposals would not be effective in addressing the SLCs we have found.

60. As we have found only one effective remedy – the full divestiture of GIPHY – there is no less costly remedy that is similarly effective.

61. We have also considered whether this remedy is a proportionate response to the SLCs. We have identified a number of adverse effects as a result of the Merger, and in a dynamic and growing sector these adverse effects are likely to be substantial and to increase over time if there is no effective action. On this basis we have concluded that a divestiture remedy is no more onerous than necessary to achieve the aim of remedying the SLCs. We have also considered the costs of the remedy and concluded that the remedy does not produce adverse effects that are disproportionate to the aim.

Divestiture of GIPHY

62. As noted above, we have decided that the sale of GIPHY is the only effective remedy to the SLCs that we have found. While divestiture of the acquired business is not an uncommon outcome when the CMA finds an SLC, divestiture of the GIPHY business poses particular challenges arising as a consequence of the completion of the Merger, and Facebook's related actions, namely the termination of GIPHY's revenue function and team, the transfer of almost all GIPHY staff on to Facebook employment contracts and the transfer of GIPHY's back office functions to Facebook. These actions took place prior to the CMA issuing its Initial Enforcement Order holding the Facebook and GIPHY businesses separate and mean that, in several respects, GIPHY is in a significantly weaker position than it was pre-Merger.

63. Accordingly, in order to overcome these challenges, we have decided that Facebook will be required to reinstate certain of GIPHY's activities and

assets and to ensure that GIPHY has the necessary management, technical and creative personnel to enable it to compete effectively throughout and following the divestiture. We anticipate that Facebook will need to provide appropriate financial and other incentives to encourage former GIPHY employees to transfer back to GIPHY, and to recruit appropriate replacements for any key GIPHY staff who choose not to do so. We also anticipate that GIPHY will need to be divested with sufficient financial resources to allow it to operate and compete as it would have done had it not been acquired by Facebook.

Conclusions

64. As a result of our investigation and our assessment, we have concluded that the completed acquisition by Facebook of GIPHY has resulted in the creation of a relevant merger situation.

65. We have also concluded that the Merger has resulted or may be expected to result in an SLC:

(a) in the supply of display advertising in the UK due to horizontal unilateral effects arising from a loss of dynamic competition, and

(b) in the supply of social media services worldwide (including in the UK) due to vertical effects resulting from input foreclosure.

66. Due to the multi-sided nature of the markets in which the Parties operate, a lessening of competition in the supply of social media services also has effects on competition in the supply of display advertising. The vertical effects resulting in a loss of competition in social media that we have highlighted above therefore exacerbate the effects on competition in display advertising arising from the elimination of a potential competitor.

67. In order to address the SLCs that we have found, we have decided to require Facebook to sell GIPHY, in its entirety, to a suitable purchaser.