

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

Summary of Remittal Final Report

Notified: 18 October 2022

1. On 30 November 2021, the Competition and Markets Authority (**CMA**) completed its original Phase 2 inquiry into the merger between Facebook, Inc. (**Facebook**)¹ and GIPHY, Inc. (**GIPHY**) (together, **the Parties**) (the **Merger**). Facebook was re-named Meta Platforms, Inc. in October 2021 but for the purposes of this report we have continued to refer to it as ‘Facebook’, as the Merger completed before the rebranding.
2. Facebook is by far the largest provider of social media and messaging services in the UK, while GIPHY is the world’s leading provider of GIFs and GIF stickers. Facebook completed the acquisition of GIPHY on 15 May 2020, but has been required by the CMA to hold the businesses separate since 9 June 2020.
3. In its decision of 30 November 2021 (the **Phase 2 Final Report**), the CMA found that the Merger had resulted or may be expected to result in a substantial lessening of competition (**SLC**). To address these concerns, the CMA ordered Facebook to sell GIPHY in its entirety. However, on 23 December 2021, Facebook appealed the CMA’s decision to the Competition Appeal Tribunal (the **Tribunal**). The Tribunal upheld one of the six grounds of appeal, which related to procedural flaws, and ordered the Phase 2 Final Report to be quashed and the case remitted to the CMA for reconsideration.
4. During the Remittal Inquiry, the CMA has received further submissions and gathered new evidence from the Parties and third parties. Having considered all the available evidence (from the original investigation and Remittal Inquiry), the CMA has found that the Merger has resulted or may be expected to result

¹ On 28 October 2021, Facebook, Inc. changed its corporate name to Meta Platforms, Inc., pursuant to an amended and restated certificate of incorporation filed with the Delaware Secretary of State. For the purposes of this document, we continue to refer to the company by its former name (Facebook, Inc. or Facebook), as this was the name used at the time of the acquisition of GIPHY, Inc.

in an SLC in the markets for social media and display advertising, harming social media users and businesses in the UK.

5. 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.

Why has there been a Remittal Inquiry?

6. On 23 December 2021, Facebook filed a Notice of Application for review (the **Application**) to the Tribunal, challenging the CMA's findings in the Phase 2 Final Report.
7. On 14 June 2022, the Tribunal issued its judgment (**Judgment**) on Facebook's appeal, dismissing five of the six grounds of appeal. In particular, the Tribunal found there was no error of law in the CMA's analysis of the Merger's effect on competition. However, the Tribunal upheld one of the procedural grounds of appeal – that third party confidential material redacted from the Phase 2 Provisional Findings and Phase 2 Final Report should have been disclosed to the Parties (at least within a confidentiality ring comprised of external advisers) to satisfy the CMA's duty of consultation.
8. In light of the Judgment, the Tribunal ordered, after agreement between the CMA and Facebook, the Phase 2 Final Report to be quashed and the case remitted to the CMA for reconsideration.

How have we approached the Remittal Inquiry?

9. The Remittal Inquiry began on the 15 July 2022 and lasted three months, with this decision (the **Remittal Final Report**) published on 18 October 2022.
10. In the Remittal Inquiry, we have reconsidered the statutory questions:
 - (a) whether a relevant merger situation has been created; and
 - (b) if so, whether the creation of that situation has resulted, or may be expected to result, in an SLC within any market or markets in the UK for goods and services.
11. During our investigation, we have addressed the specific procedural flaws which resulted in the Phase 2 Final Report being quashed by the Tribunal. On 18 July 2022, we adopted the Phase 2 Final Report as the provisional findings in the Remittal Inquiry (the **Remittal Provisional Findings**). We disclosed the full, unredacted text of the Remittal Provisional Findings into a confidentiality ring consisting of Facebook and GIPHY's external advisers (each of whom

had signed relevant undertakings to protect the confidential information). This enabled the Parties, through their advisers, to make representations on material which was previously redacted in the Phase 2 Final Report.

12. We also invited any interested parties to make written submissions on the Remittal Provisional Findings. We received and considered submissions from Facebook, GIPHY and one third party (CCIA). In light of these submissions, we collected and analysed new evidence from the Parties and relevant third parties.
13. Given the elapse of time since the publication of the Phase 2 Final Report in November 2021, we also gathered evidence from other market participants in the industry on relevant market developments since this time, along with the Parties' submissions on these developments.
14. We have taken into account all the available evidence (from the original investigation and Remittal Inquiry) to investigate the 'theories of harm' identified in the Phase 2 investigation. The Remittal Inquiry has focused on two ways in which the Merger could give rise to an SLC. Both 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 dynamic competition in display advertising; and
 - (b) vertical effects on competition in the supply of social media arising from input foreclosure.
15. The CMA's primary duty is to seek to promote competition, both within and outside the UK, for the benefit of UK consumers. Whilst Facebook and GIPHY are US-based entities, they are both active in the UK, and provide services to UK users. 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%].
16. Markets for digital products and services, such as those offered by the Parties, are typically fast-moving and dynamic. As such, our assessment is forward-looking and considers the Parties' plans for their businesses in future.

What did the evidence tell us...?

...about market power?

17. We 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.
18. 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.
19. In relation to the supply of social media, we have found that Facebook has significant market power. Facebook platforms make up by far the highest share of user time spent on social media in the UK and other platforms tend to be accessed in addition to the Facebook platforms, rather than as an alternative to them.
20. Finally, in relation to display advertising, our view is that Facebook has significant market power in the UK. The Parties submitted that competition in display advertising has intensified since the Phase 2 Final Report. However, our analysis, based on data collected during the Remittal Inquiry, shows that the Facebook platforms still have a combined market share of around [40-50]%.

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

21. 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.
22. Our view is that 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?

23. One of the concerns that we have investigated is whether the Merger gives rise to horizontal unilateral effects as a result of a loss of dynamic competition. What we mean by this is the possibility that the Merger has removed from the market a business that was competing, or had the potential to compete, with Facebook. We were particularly interested in GIPHY's role in driving dynamic competition through its efforts to expand into display advertising in the UK, through its innovative 'Paid Alignment' advertising service. GIPHY was offering this GIF-based advertising service in the US prior to the Merger and hoped to expand its offering internationally, including into the UK. We describe these 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).
24. We have found that the loss of dynamic competition in display advertising is substantial in the light of:
- (a) Facebook's significant market power in display advertising;
 - (b) GIPHY's strong position as a leading provider of an important social media engagement tool; although GIPHY's traffic has decreased since its peak in mid-2021, it continues to facilitate billions of GIF searches globally each month;
 - (c) GIPHY's efforts prior to the Merger 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) Evidence that, absent the Merger, Facebook would increasingly have had an incentive to respond to a dynamic threat of competition from GIPHY;
 - (f) The fact that successful expansion into display advertising can be magnified by networks effects in two-sided social media platforms (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);
 - (g) The high barriers to entry and expansion 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 had 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.

25. The Parties' submissions on third party confidential information not previously disclosed in the original Phase 2 investigation, and market developments since the Phase 2 Final Report, do not undermine our assessment of GIPHY's importance as a dynamic competitor in display advertising.
26. On the basis of the evidence gathered during the original Phase 2 investigation and the Remittal Inquiry, we consider that the Merger will result in an SLC as a result of horizontal effects, in the form of a loss of dynamic competition in display advertising.

...about any vertical effects of the Merger?

27. One of the concerns 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 input foreclosure.
28. 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.
29. Our assessment has shown that GIPHY has several distinctive features that may make it particularly attractive to social media platforms, such as the quality of its content. GIFs are a popular feature of social media platforms, driving user engagement. We have found that there is only one other GIF provider offering a comparable service to GIPHY, Tenor, which is owned by Google. Since rival social media platforms do not have a range of good alternatives to GIPHY, we have found that Facebook has the ability to foreclose its rivals.

30. Concerning Facebook's incentives to foreclose, we have found that there would be direct benefits of foreclosure to Facebook. 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 that have these engaging features 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. On this basis, we consider that Facebook would also have an incentive to foreclose its rivals from access to GIPHY.
31. 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.
32. The Parties' submissions on third party confidential information not previously disclosed in the original Phase 2 investigation, and market developments since the Phase 2 Final Report, do not undermine our assessment of Facebook's ability and incentive to foreclose its rivals from access to GIPHY, or the effect this would have in social media.
33. On the basis of the evidence we have gathered during the original Phase 2 investigation and the Remittal Inquiry, we 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?

34. The evidence we have collected shows 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.
35. We have also not seen any evidence that rivalry-enhancing efficiencies (including in the form of competition between vertically integrated social media platforms) would result from the Merger.

What are our conclusions on the effects of the Merger?

36. In light of the above, we have concluded that the Merger gives rise to an SLC in display advertising services in the UK as a result of horizontal effects in the form of loss of dynamic competition, and in social media services worldwide (including in the UK) as a result of vertical effects in the form of input foreclosure.

What must be done to remedy the SLC we have found?

37. We have decided that only divestiture of GIPHY to a suitable purchaser would be an effective remedy to address the SLC and the harm it would cause to competition, and that requiring this would not be disproportionate. A suitable purchaser must be found which meets the criteria we have described in the Remittal Final Report.

What happens next?

38. The CMA will now take steps to implement the remedy described above, and will consult publicly on the approach to be taken.
39. In line with its guidance, the CMA will implement its remedy decision within 12 weeks of publication of the Remittal Final Report. The CMA may extend this time period once by up to six weeks.