7 February 2022

Mobile Ecosystems Market Study Interim Report: observations of Match Group

I. Introduction

Match Group, Inc. ("**Match Group**") is grateful for the opportunity to provide its views on the Mobile Ecosystems Market Study Interim Report ("**Interim Report**"), published by the Competition and Markets Authority ("**CMA**") on 14 December 2021.[1] Match Group owns a portfolio of companies that provide dating products that are available in over 40 languages across more than 190 countries through apps and websites. Through its brands, including Tinder, OkCupid, PlentyofFish, Match and Hinge, Match Group's mission is to enable hundreds of millions of users to create meaningful connections, regardless of age, gender and dating goals. The vast majority of our user base relies on mobile solutions, meaning that our brands are heavily dependent on Apple's and Google's mobile ecosystems to operate their businesses.

Match Group would like to applaud the CMA for its comprehensive examination of mobile ecosystems and its insightful, thorough and evidence-based Interim Report. We are in broad agreement with the CMA's findings, which show that Apple and Google have considerable market power over (the various layers of) their respective ecosystems, which they can use to harm competition, businesses that rely on them, and consumers. We also agree with the CMA's finding that Apple and Google would meet the proposed criteria for designation as firms with "Strategic Market Status" for each of the main activities within their mobile ecosystems, notably for the operating system (and for Apple also the devices on which it is installed), the app store and the browser / browser engine.

We note that the CMA's current intention is not to make a market investigation reference as "*the DMU [Digital Markets Unit] – through a combination of legally enforceable codes of conduct and pro-competitive interventions – will in principle be best placed to tackle the competition concerns identified by this market study*."[2] One possible downside of this approach is that the DMU does not yet have the power to adopt codes of conduct and pro-competitive interventions to regulate Apple's and Google's conduct, and the enabling legislation has not yet been tabled. This creates a risk that the remedies that the CMA considers necessary to address the competitive concerns identified in its report may not be in place before 2023 or 2024. In the meantime, markets will continue to function sub-optimally, and UK consumers will continue to be harmed, being deprived of choice, as well as innovative products and services. In this context, Match Group urges the CMA to pursue

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1 Competition and Markets Authority, "Mobile ecosystems – Market study interim report" ("Interim Report"), 14 December 2021.

2 Id., paragraph 9.11.

its antitrust investigation into Apple's anticompetitive App Store practices,[3] as this investigation could deliver timely remedies to the benefit of app developers and UK iOS users. At the same time, we invite the CMA to consider making a market investigation reference if, towards the completion of this market study, legislation has not yet been tabled to establish the *ex ante* regulatory regime for digital platforms with "Strategic Market Status".

One of the great aspects of the Interim Report is that it takes a holistic approach to mobile ecosystems. This has allowed the CMA to paint the full picture of how Apple and Google, by controlling their respective ecosystems as a whole, as well as the key layers giving access to these ecosystems, have harmed competition, as well as business users and consumers. However, Match Group's observations will focus on themes 4, 6 and 7 of the Interim Report, which are most directly connected with our business. In general, we mostly focus on Apple's conduct, as this is what has so far caused the greatest issues for our business. However, to the extent that Google's practices are (progressively) similar to Apple's, the same observations would be relevant for Google.

This submission is divided into five parts. **Part II** looks at the CMA's findings regarding competition in the distribution of native apps. **Part III** refers to the Interim Report's findings in relation to the role of Apple and Google in competition between app developers. **Part IV** provides Match Group's comments on the potential interventions considered by the CMA. **Part V**, finally, concludes.

II. Competition in the distribution of native apps

Match Group agrees with the key findings of the CMA regarding competition in the distribution of native apps, in particular that Apple and Google face limited competitive constraints, meaning that they each have "*substantial and entrenched market power in the distribution of native apps within their ecosystems*."[4]

Since Apple has been subject to regulatory scrutiny, it has claimed that it is subject to various constraints in app distribution, such as from the Google Play Store, from various platforms on which digital services can be delivered and used (e.g., PCs, laptops, gaming consoles and even smart TVs) or the presence of web apps. [redacted]: the App Store and the Play Store are not substitutable (but most app developers – and certainly dating app developers whose services rely on network effects – must be present in both to have access to the wide user base they need to operate their business), alternative platforms (e.g., PC or laptops) are not suitable alternatives for dating app users and web apps are not viable alternatives to native iOS apps. Hence, Match Group welcomes the CMA's finding that, based on the extensive evidence collected, Apple is not subject to the constraints it has claimed.

3 See Competition and Markets Authority, "Investigation into Apple AppStore", 4 March 2021, available at https://www.gov.uk/cma-cases/investigation-into-apple-appstore.

4 For a summary, see Interim Report, page 124.

Match Group would like to particularly comment on two issues regarding competition in the distribution of native apps: first, Apple's use of the "security" defence to justify its monopoly over app distribution on iOS, and second, the CMA's consideration that aspects of Apple's and Google's operation their app stores (including the commissions charged for in-app purchases) are consistent with them having market power.

A. Apple's "security" defence against allowing direct app downloads or third-party app stores

Apple repeatedly seeks to justify various anticompetitive practices in the name of privacy and security. Apple has not shied away from this recurrent theme in its submissions to the CMA, as the Interim Report indicates.[5] Apple has long used this messaging as a pillar in its public advertising. However, the CMA has correctly identified that **Apple's security and privacy pleads should not be taken at face value or as presented in advertisements**, stating that

> "through design choice or other policies, Apple and Google are often in the position of acting in a quasi-regulatory capacity in relation to users' security, privacy, and online safety. In many cases they opt to make decisions on behalf of consumers. **However, it is not always clear if these numerous choices […] are in all cases made fully in the interests of consumers**."[6]

Match Group agrees with the above statement. Apple advances the "security and privacy" defence again and again, despite the fact that it can easily be – and has been – debunked. Apple has, for example, invoked the "security" defence to justify its decision to prohibit third-party app stores, as well as the direct download of apps on iOS devices, arguing that centralized app distribution is a prerequisite for the security of the iPhone and iOS users.[7] This, however, is not true, as there seem to be ways to ensure the security of iOS users and the integrity of iPhone devices even if distribution channels other than the App Store are used.[8]

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5 See e.g., Id., paragraph 4.115, where Apple sought to justify its monopoly over app distribution on security concerns: "Apple submitted that sideloading is a recognized security threat."; See, also paragraph 6.351: "Apple has provided various justifications for its App Store policies on cloud gaming. Apple claims that its policies around cloud gaming are justified on the grounds of security and privacy, as well as user experience and expectations."

6 Id., paragraph 11 [emphasis added].

7 See Id., paragraphs 4.113-4.118, which refer to the "security arguments" advanced by Apple to the CMA against sideloading. See also paragraph 7.56, on Apple's security concerns about third-party app stores: "Apple raised concerns regarding the very significant potential security and privacy implications of permitting third-party app stores to operate on iOS devices. Specifically, Apple told us that, if third-party app stores were able to operate on iOS devices, the level of protection against malware would move from Apple's high standard of review to the lowest standard offered by a third-party app store, creating a risk for the individual device and the overall ecosystem."

8 See Damien Geradin, "Should iOS users be allowed to download apps through direct downloads or third-party app stores?", https://appfairness.org/wp-content/uploads/2021/12/iOS_Users_and_Third_Party_App-Stores.pdf.

In addition, the very state of the App Store, which counts numerous fraudulent apps, calls into question Apple's security arguments. According to an analysis carried out by *The Washington Post*, out of "*the 1,000 highest-grossing apps on the App Store, nearly 2 percent are scams […]. And those apps have bilked consumers out of an estimated $48 million during the time they've been on the App Store.*"[9] As correctly observed in *The Washington Post* article,

> "Apple has long maintained that its exclusive control of the App Store is essential to protecting customers, and that it only lets the best apps on its system. But Apple's monopoly over how consumers access apps on iPhones can actually create an environment that gives customers a false sense of safety, according to experts. Because Apple doesn't face any major competition and so many consumers are locked into using the App Store on iPhones, there's little incentive for Apple to spend money on improving it, experts say."[10]

Furthermore, while Apple puts forth the "security" argument to restrict alternative app distribution channels, it conveniently ignores that its mobile phone users can use the Safari browser to access an unlimited amount of non-secure, potentially dangerous websites and download programs that can in fact directly harm the iPhone's functionality and operating system. User activity such as this, however, does not represent a revenue stream for Apple, unlike the lucrative IAP fees Apple is able to charge developers such as Match Group. Apple's focus on apps is, in fact, misdirected.

Thus, the "security" defence advanced by Apple seems to simply be a way for it to try to maintain a firm grip over app developers. In any event, Match Group believes that, if Apple and Google consider that restrictions on app distribution are necessary for security or privacy reasons, they should have the burden of proving that and, if they do, any restrictions imposed in the name of privacy or security should be strictly necessary, proportionate and duly justified.

B. <u>The commissions charged on in-app purchases are an expression of Apple's and Google's market power</u>

Match Group agrees with the CMA's consideration that aspects of Apple's and Google's operation their app stores, including their rules around the mandatory use of their in-app payment systems and the commissions charged for in-app purchases to app developers whose apps offer "*digital goods or services*", are consistent with them having market power.[11]

When it comes to commissions charged for in-app purchases, the CMA considers that "*it is not clear to what extent the changes [introduced by Apple and Google in the level of the commission]*

9 Reed Albergotti and Chris Alcantara, "Apple's tightly controlled App Store is teeming with scams", *The Washington Post*, 6 June 2021, available at https://www.washingtonpost.com/technology/2021/06/06/apple-app-store-scams-fraud/.

10 Ibid.

11 Interim Report, paragraphs 4.222 et seq.

are genuinely driven by competition."[12] Match Group agrees with the CMA's scepticism over the reasons behind Apple's and Google's in-app purchases policies. Such policies, including any exemptions from or discounts to the commissions introduced, are not driven by competition; instead, they constitute reactions to the various investigations taking place across the world (mostly against Apple) and are driven by fear of (further) regulatory intervention.[13] This has also been the view of Judge Gonzalez Rogers, who, in the trial following Epic Games' lawsuit against Apple, noted that the reduction of the IAP commission from 30% to 15% for small app developers as part of the App Store Small Business Program "***really wasn't the result of competition. That seemed to be a result of the pressure that you're feeling from investigations, from lawsuits, not competition***."[14]

In any event, as correctly identified by the CMA, "*the effect of these discounts on Apple's and Google's commission revenues appears likely to be limited.*"[15] These discounts, especially in the case of Apple, intentionally target smaller app developers, which do not meaningfully contribute to Apple's revenues from the IAP commission. Instead, the "*small number of larger apps*" which generate the vast majority of Apple's App Store revenues, including Match Group which pays Apple more than $[redacted] annually in IAP commissions, do not benefit from such discounts. Apple's policies are notoriously self-serving: Apple adopts policies to muddy the water, while ensuring that it will not be negatively affected by such policies. The same can be said for Google's policies to the extent they reflect those adopted by Apple.

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12 Id., paragraph 4.229.

13 For example, the European Commission is investigating Apple's App Store rules for music streaming providers and sent a Statement of Objections to Apple in April 2021. See European Commission Press Release, "Antitrust: Commission sends Statement of Objections to Apple on App Store rules for music streaming providers", 30 April 2021, available at https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2061/. The CMA is investigating Apple over the terms and conditions it imposes on app developers. See CMA Press Release, "CMA investigates Apple over suspected anti-competitive behaviour", 4 March 2021, available at https://www.gov.uk/government/news/cma-investigates-apple-over-suspected-anti-competitive-behaviour. The Netherlands Authority for Consumers and Markets ("ACM") investigated Apple's App Store conduct, ordering Apple to "adjust the unreasonable conditions in its App Store that apply to dating-app providers." Consequently, "Apple must adjust the conditions for access to the Dutch App Store for dating-app providers. Dating-app providers must also be able to use payment systems other than Apple's payment system in the App Store. In that context, dating-app providers must also have the ability to refer in their apps to payment options outside the app." See ACM, "ACM obliges Apple to adjust unreasonable conditions for its App Store", 24 December 2021, available at https://www.acm.nl/en/publications/acm-obliges-apple-adjust-unreasonable-conditions-its-app-store. In South Korea, legislation was passed in 2021 which, among others, prohibited app store providers (including Apple) from mandating the use of their in-app payment system on app developers. See Kwang Hyun Ryoo, Ji Yeon Park and Juho Yoon, "Korean telecom law amended to regulate practices of "app market service providers" such as app stores", *Lexology*, 30 August 2021, available at https://www.lexology.com/library/detail.aspx?g=bbb8fb96-2bfa-466e-a1ca-ace016c1ff9e.

14 See Adi Robertson, "Tim Cook faces harsh questions about the App Store from judge in Fortnite trial", *The Verge*, 21 May 2021, available at https://www.theverge.com/2021/5/21/22448023/epic-apple-fortnite-antitrust-lawsuit-judge-tim-cook-app-store-questions/ [emphasis added].

15 Interim Report, paragraph 4.228.

Match Group, furthermore, agrees with the CMA's finding that "*it is difficult to draw a direct comparison between the App Store and Play Store with other app stores*,"[16] meaning that a direct comparison of the commission fees charged by each store would not be correct. As the CMA correctly points out,

> "Apple's and Google's app stores have a different business model to platforms, in that they also increase the value of their respective mobile devices and operating systems, from which Apple and Google already profit. This contrasts to 'standalone' app stores which do not provide this benefit, or, for example, to Microsoft's Xbox, where consoles are priced at low, no, or negative margin, while profits are subsequently generated through the sale of games and subscriptions on the Microsoft Store."[17]

On a broader note, Match Group would like to observe that it is not clear why app developers should be obliged to pay a commission to Apple or Google. In the first place, app developers bring tremendous value to the app stores as consumers buy smartphones in order to use apps. The only reason why Apple is able to charge a hefty commission is that it controls a bottleneck. Second, the distinction between apps that pay a commission and those that do not is entirely arbitrary and heavily burdens a small number of app developers (in the case of Apple, around 15%), while the vast majority pay just $99 per year. Once again, this reflects Apple's gatekeeper power as in a competitive market those app developers forced to pay a commission would use alternative distribution mechanisms. Third, it is absolutely unclear why the commission is paid for, with different justifications for its imposition having been brought forward over time, and Apple's rationale for charging a commission has varied over time. Match Group believes that Apple's and Google's commissions do not reflect the value of the services provided to developers. The only reason why Apple charges a 30% commission is because it historically has done so and because it can. Even if the 30% commission could once be justified – and Match Group does not believe this is the case – it certainly does not reflect the costs and functioning of the current app marketplace, and thus cannot be justified.

III. <u>The role of Apple and Google in competition between app developers</u>

Match Group commends the CMA for its thorough and accurate analysis of the role Apple and Google play in competition between app developers. Based on our experience with the App Store and the Play Store, we agree with the findings of the Interim Report that (i) Apple and Google can "*set the 'rules of the game' for app developers who seek to use their app stores*" by, *inter alia*, implementing opaque app review processes and inconsistently applying their rules, through the design of their app stores, as well as by having access to "*a range of commercially sensitive information from app developers*" that they may use to develop products and enter new markets; and (ii) Apple and Google "*require certain app developers to use their payment systems, through*

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16 Id., paragraph 4.232.

17 Ibid.

which they collect a commission of up to 30% on in-app purchases" and which reduce "*developers' control over pricing and refunds*" and "*can make it harder for users to switch devices*."[18]

We also agree with the CMA's finding that Apple's and Google's arguments that "*they are incentivised to ensure that users have access to a choice of high quality apps*" should not be overstated, as "*each company's incentives are unlikely to always be fully aligned with consumers' interests […] [and] Apple and Google may in some cases have an incentive to engage in practices that are harmful for competition or consumers, even if these could lessen the value or experience that users derive from their ecosystems*."[19] **Apple and Google like to say that they care for consumers and adopt their policies and practices only to their benefit, but it is not always clear that they do.**

Match Group would now like to provide some comments which support the CMA's findings in Chapter 6 of the Interim Report. We, first, touch upon the CMA's findings as to the app review process (Section A). Second, we comment on the ranking of apps in app store search results (Section B). Third, we briefly touch upon Apple's and Google's market intelligence arising from access to commercially sensitive information of iOS app developers (Section C). Finally, we discuss Apple's imposition of the mandatory use of its in-app payment system, IAP (Section D).

A. The app review process

The CMA has closely looked into Apple's and Google's app review processes,[20] which all apps (and subsequent updates) must go through in order to be made available for distribution through the App Store and the Play Store. During the app review process, Apple and Google assess compliance of developers' apps with their rules. Our observations focus on Apple's conduct of the app review process, during which it assesses compliance with its – unilaterally imposed, unpredictably modified and inconsistently applied – App Store Review Guidelines.

While Apple has once again sought to convince the CMA that it should be given a *carte blanche* since "*its app review process is an important tool contributing to the security offered by iPhones*,"[21] Match Group agrees with the CMA's consideration that the existence of Apple's app review process means that it "*effectively dictate[s] the terms that third-party app developers must agree to in order to access [the App Store]*,"[22] and gives "*Apple […] a powerful position in respect of app developers seeking to bring their apps to users on the App Store.*"[23]

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18 Id., page 255.

19 Id., paragraph 6.8.

20 Id., paragraphs 6.50 et seq.

21 Id., paragraph 6.52.

22 Id., paragraph 6.54.

23 Id., paragraph 6.55.

The description, in the Interim Report, of the app review process put in place by Apple correctly points out that app review lacks due process, is not independent, and allows Apple unfettered discretion to approve or reject apps as it deems fit. In the first place, this process is entirely carried out by Apple, which has the sole power to decide whether apps comply with the App Store Review Guidelines. Even though app developers whose apps or app updates have been rejected have a right to appeal the rejection, it is still Apple employees who will re-evaluate the decision to reject an app and either confirm or overturn that decision.[24] In the second place, the App Review Guidelines, compliance with which is assessed during the app review process, are far from clear. But what is most absurd is that Apple "*gives itself wide discretion to reject apps for new reasons not covered by the existing rules – as 'new apps presenting new questions may result in new rules at any time'*."[25]

In sum, Match Group is in complete agreement with the CMA's conclusion that

> "Apple's operation of the app review process for the App Store, in particular its inconsistent interpretation of rules and lack of clear explanation of reasons for rejections, creates uncertainty, costs and delays for app developers. This in turn is liable to hinder innovation and may be used to the advantage of Apple's own apps. We do not see any reason that such concerns should necessarily arise from an app review process aimed at ensuring quality and security."[27]

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24 Id., paragraph 6.56.

25 Id., paragraph 6.57.

26 See Id., paragraphs 6.60 et seq.

27 Id., paragraph 6.77.

Match Group also agrees with the CMA's finding that "*app developers appear to have faced fewer issues with Google's app review process for the Play Store,*" while, however, acknowledging that developers have "*faced at least some similar issues with Google's app review as with Apple's.*"[28] Match Group also agrees with the concern indicated that Google's app review process could become more like Apple, given that, in general, there appears to be a move in Google's ecosystem towards adopting conducts that are similar to Apple's restrictive conducts. After all, both companies are monopolists in their respective ecosystems – and (are able to) act as such.

B. The ranking of apps in app store search results

Match Group welcomes the CMA's description of how Apple and Google can distort competition in the downstream app markets by controlling the ranking of apps in their app store search results and with the CMA's finding that "*Apple and Google have an incentive to prioritize [...] third-party apps which depend on Apple's and Google's proprietary in-app payment systems, as the increased use of these apps would lead to a direct financial gain,*" as well as that their "*search algorithms or editorial content [have] giv[en] apparent priority to such apps.*"[29]

In the context of this submission, Match Group would like to elaborate on the following observation made by the CMA:

> "We understand that high app store search ranking is generally more important in the earlier stages of an app's life cycle, following an app's launch, or for lesser-known apps, for whom the majority of organic searches is likely to be driven by categorical rather than navigational queries."[30]

This is a correct reflection of the importance of app stores in the discoverability of apps. For well-established developers, such as Match Group portfolio brands, the App Store and the Play Store do not bring value in terms of discoverability: instead, it is Match Group that brings users to the app stores, because they want to download the specific apps.

28 See Id., paragraphs 6.71-6.73.

29 Id., paragraph 6.101 et seq.

30 Id., paragraph 6.103.

C. Access to commercially sensitive information

Match Group agrees with the CMA's finding that

> "Apple and Google each have access to a variety of non-public sources of potentially commercially sensitive information on third-party app developers:
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> - Through the app review process […].
> - As a result of the requirements for certain app developers to use Apple's and Google's payment systems for in-app purchases, Apple and Google have access to transactional-level sales data in relation to such transactions.
> - Through their operation of app stores, Apple and Google also have access to data on downloads and usage of all apps […], for example the amount of time users spend on individual apps."[31]

Through its control of the (various layers of its) ecosystem, Apple and Google get unparalleled market intelligence, which they can use to scan the horizon and identify opportunities for the launch of their own services and products (as well as what would make them successful, e.g., the best pricing model).

D. The imposition of the use of Apple and Google's in-app payment systems

Match Group is pleased to see that the CMA has carried out a thorough analysis of the in-app purchase rules of Apple and Google and the (negative effects stemming from the) imposition by Apple of the mandatory use of its in-app payment system by app developers whose apps are deemed to offer "*digital goods or services*".[32] The obligation to use Apple's and Google's in-app payment systems (IAP and GPB, respectively) and the accompanying anti-circumvention restrictions put in place by these companies have been subject to numerous complaints and regulatory scrutiny as these practices are detrimental to both competition and consumers. In the context of this submission, we would like to provide observations on points identified by the CMA in the Interim Report.

31 Id., paragraph 6.124.

32 Id., paragraph 6.149 et seq.

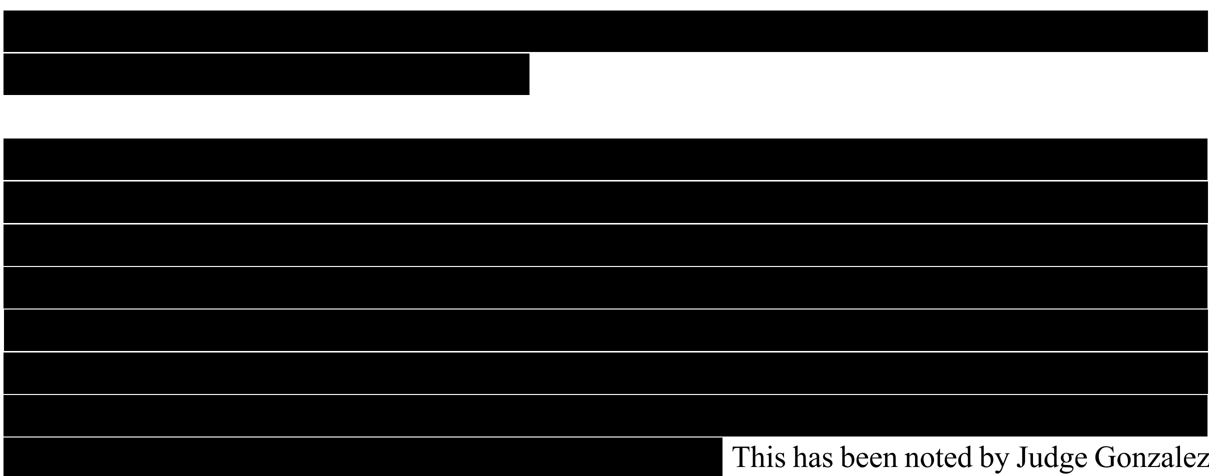
This Section is structured as follows: Sub-section 1 comments on the unprincipled rules surrounding in-app payments. Sub-section 2 looks into the arguments made by Apple and Google in support of the mandatory use of their in-app payment systems. Sub-section 3, finally, comments on the CMA's analysis of the potential harm to competition resulting from in-app purchase rules.

1. The IAP and GPB obligations are set out in an unprincipled manner

The rules around the mandatory use of IAP and GPB are unclear and unprincipled. In the first place, the distinction between "*digital goods or services*" (for which IAP and GPB must be used) and "*physical goods or services*" (for which the use of IAP and GPB is prohibited) is arbitrary, as the boundaries between what is deemed "digital" and what "physical" are not clearly discernible. In the second place, the rules on the mandatory use of IAP are subject to a great number of exceptions that Apple makes on the fly to appease certain categories of developers, to benefit its own business or in response to legal constraints. **Worse, the choice of this unfairly structured system, whereby app developers offering "*digital goods or services*" have to use IAP (and soon GPB) and pay a commission, while those that offer "*physical goods or services*" do not have to do so, is arbitrary.**

Apple has told the CMA that "*the primary reason why IAP does not apply to apps offering physical goods or services is because Apple 'lacks the ability to verify the delivery of physical goods or services to the customer when performance of the transaction between the app developer and the user takes place outside of the device.'*"[33] **In reality, however, Apple cannot verify the delivery of digital goods or services either.**

33 Id., paragraph 6.177.



This has been noted by Judge Gonzalez Rogers in the *Epic Games vs Apple* litigation:

> "One of Apple's strongest arguments for IAP security was that it can verify digital good transactions. Unlike for physical goods, Apple uses IAP after confirming that the developer has actually delivered a digital good to the user and is entitled to the corresponding payment. **The evidence shows, however, that Apple itself does not perform the confirmation**. **Apple's Head of Pricing, Mr. Grey, testified that Apple simply asks the developer to confirm that delivery occurred and then issues a receipt.** Apple has not shown how the process is any different than other payment processors, and any potential for fraud prevention is not put into practice."[34]

Thus, the application of different rules on app developers whose apps offer digital goods or services vis-à-vis those whose apps offer physical goods or services on the ground that it is only when it comes to the former that Apple can verify the delivery of digital goods or services is nothing more than a made-up excuse designed to justify Apple's lucrative revenue stream. In fact, we believe that Apple has chosen to charge app developers whose apps offer "*digital goods or services*" because this is where they can most easily compete. By forcing app developers with whom they (can potentially) compete to pay 30% of their revenues to them and to allow them to have all sensitive consumer information and information about the purchasing habits of consumers, Apple and Google obtain a competitive advantage over their (potential) competitors.

2. Arguments laid out by Apple and Google in support of the imposition of the IAP and GPB obligation

The Interim Report refers to and rebuts the rationales for the imposition of the mandatory use of IAP and GPB as advanced by Apple and Google to the CMA, in particular: (i) that it is required for them to collect their commission for the sales app developers make through the App Store and the Play Store; and (ii) that it benefits consumers.

34 *Epic Games, Inc, v. Apple Inc.,* Rule 52 Order after Trial on the Merits, Case No. 4:20-cv-05640-YGR, page 117 [emphasis added].

(a) Collection of the commission

In the first place, Apple and Google have argued that the use of their in-app payment systems is necessary for them to *"collect commission for the sales that developers make as a result of distributing apps through [the App Store and the Play Store]."*[35] In this regard, Apple told the CMA that

> "the commission that it charges on in-app payments is not a fee for using IAP, but that […] the commission supports the overall App Store infrastructure and ecosystem, which facilitates the plethora of functions (including technology, customer connection and customer trust) that must be in place to lead to an in-app purchase in the first place."[36]

Similarly, Google submitted that "*its payment policy enables the Play Store to collect its service fee in a way that aligns Google's success with developer success, since Google makes money only when developers of certain apps successfully sell their apps, in-app content, or subscriptions to users*."[37]

Apple and Google claimed that having certain apps use their payment systems "*is the most efficient way for them to charge a commission and recoup the investments*" made on their app stores. In the absence of IAP, Apple argued that it "*would have no effective way of tracking when transactions that are subject to its commission take place, or of calculating and collecting the money it is owed by hundreds of thousands of developers on those sales*."[38]

35 Interim Report, paragraph 6.165.

36 Ibid.

37 Id., paragraph 6.166.

38 Id., paragraph 6.167.

39 Ibid.

[redacted], Google's and Apple's implementation plans of the South Korean amendment to the Telecommunications Business Act show that there are ways for Apple and Google to collect a commission other than mandating the use of their in-app payment systems. As the CMA acknowledges in the Interim Report,

> "Google has recently announced that in South Korea, developers will from 18 December 2021 be able to add an alternative in-app payment option, alongside Google Play's billing system, for their mobile and tablet users. In this announcement Google states that it still intends to collect its commission from developers who sell digital content but will deduct 4% when a user selects a developer's alternative in-app billing system, to account for the developer's costs in supporting it. This suggests that Google has found a technical solution that enables it to track in-app transactions where a third-party payment system is used, in order to collect its commission."[40]

While the details of Apple's implementation plan are not yet clear, the Korean Regulator said that Apple plans to allow alternative payment systems for a lower service fee – which is similar to what Google has opted for.

Apple has also stated that it will still charge a commission on transactions to dating apps in the Dutch storefront of the App Store which, following the orders of the Netherlands Authority for Consumers and Markets ("**ACM**"), will be allowed to include an in-app link directing users to the developer's website to complete a purchase or use a third-party in-app payment system.[41] This further proves that the use of IAP is not a prerequisite for Apple's ability to collect a commission.

Apple also sought to argue that its rules around IAP "*are not unique to Apple but are in line with the business models and rules of many other digital marketplaces.*"[42] Match Group could not agree more with the CMA's dismissal of this argument on the ground that

> "a simple comparison of requirements against other platforms is not necessarily informative. First, the rules of some platform owners are stricter than others in terms of the extent to which their payment systems are required to be used. Further and in any event, the lack of competition faced by Apple and Google's app stores means that their restrictions on the use of alternative payment options are of particular concern […]."[43]

(b) User benefits

In the second place, Apple and Google defended the obligation to use their in-app payment systems on the ground that it results in user benefits as it provides "*a convenient and secure way of buying*

40 Id., paragraph 6.170.

41 See "Distributing dating apps in the Netherlands", *Apple Developer*, available at https://developer.apple.com/support/storekit-external-entitlement/.

42 Interim Report, paragraph 6.168.

43 Id., paragraph 6.172.

and managing digital content from third-party app developers."[44] Match Group supports the CMA's analysis, which, while acknowledging that there may be some benefits to the use of Apple's and Google's in-app payment systems ("*particularly those which are connected to overall usage of the mobile device*"),[45] correctly points out, first, that "*many user benefits can also be provided by alternative payment solutions*," second, that non-digital apps which are prohibited from using IAP and GPB *"process in-app transactions with little apparent negative consequence*" and, third, that third-party payment systems offer users several benefits (e.g., in terms of flexibility in the pricing structures or payment methods and the handling of refunds) that IAP and GB do not.[46]

On the issue of consumer benefits, **Apple, once again, seeks to substitute its own views for that of app developers and consumers, by determining what features or services they want to receive. Worse, in doing so, neither does it take into account the differences that exist between various apps, meaning that some features may be irrelevant for them, nor does it take into account the varying consumer preferences.** Instead, it adopts a one-size-fits-all approach. Apple submitted to the CMA that

> "IAP allows an iOS user to buy digital content within the app on an Apple device using the payment credentials the user has already registered with Apple and with the convenience of a few clicks. It said that this gives users of iOS devices a seamless, frictionless and safe way to buy digital content from third-party developers through the App Store. Apple further submitted that IAP provides the following benefits and features: Family Sharing and Ask to Buy; clear and conspicuous pricing; biometric authentication; email receipts and purchase history; Report a Problem and refunds; restore purchase; manage and cancel subscriptions; fraud prevention."[47]

In addition, the ability to obtain refunds or to cancel subscriptions through Apple are not features that are necessarily valued by users; in fact, the (inefficient) handling of such issues by Apple has been the reason behind considerable user frustration. Or even, users may simply not place (significant) value in being able to use a single set of payment details or in being able to manage and cancel subscriptions through a centralized menu.

44 Id., paragraph 6.173.

45 Id., paragraph 6.174.

46 Id., paragraph 6.175.

47 Id., paragraph 6.173.

App developers should, therefore, be free to decide whether the features offered by Apple will be valued by their users and, if the answer is positive, they could offer IAP. Similarly, users should be free to decide which features or services they value – and if they do value Apple's services or features, they would be free to vote with their feet. What is problematic is that Apple is convinced that its proposition is the best, depriving app developers and users from choice and distorting competition.

In sum, **the main benefits of the use of IAP are for Apple itself and not for iOS users**, as Apple would wish the CMA to believe. Through the mandatory use of its in-app payment system, Apple confiscates the customer relationship, obtains valuable user data and it interposes itself between app developers and the user. Apple is the winner, while app developers and users are clearly the losers. All these concerns are more pronounced (at least for now) in Apple's ecosystem, but Google has been making its payment rules similar to Apple's.

3. Potential harm to competition resulting from in-app purchase rules

The CMA thoroughly considers the possible harms that can arise from the in-app purchase rules imposed by Apple (and to a lesser extent, by Google).[48] The CMA finds that:

(i) In the absence of such mandatory rules, "*app developers would be able to choose, often bespoke, payment solutions that better meet their needs and those of their users, and […] there would be a greater incentive for PSPs to innovate in payment solutions specifically designed for in-app payments*";[49]

(ii) Apple's in-app purchase rules "*may make it harder for app developers to interact directly with their customers and receive valuable data necessary for them to improve their services*";[50]

(iii) The mandatory use of Apple's and Google's in-app payment systems "*may cause billing issues for users when they switch between iOS and Android devices, adding to other switching costs*";[51] and

(iv) The anti-steering rules "*could serve to limit consumers from making informed and effective choices between distribution channels*."[52]

48 Id., paragraphs 6.180 et seq.

49 Id., paragraph 6.194.

50 Id., paragraph 6.202.

51 Id., paragraph 6.215.

52 Id., paragraphs 6.221.

Match Group agrees with both the CMA's analysis and its findings. In the context of this submission, we will provide some remarks related to certain specific issues raised in the Interim Report, in particular: (i) the lack of flexibility associated with the mandatory use of IAP, (ii) the consequences of the confiscation of the customer relationship by Apple, and (iii) the anti-steering rules put in place by Apple.

(a) Remarks related to the lack of flexibility associated with the use of IAP

The Interim Report explains in detail how Apple's IAP is an inflexible solution. Match Group would like to briefly touch upon one particular statement made by Apple, namely that

> "it considers the options available to developers are very flexible and provide developers with considerable choice and freedom to determine their own business offerings and that it is constantly engaging with users and developers to make improvements to the App Store. For example, Apple has recently announced plans to expand the number of price points available to developers for subscriptions and has recently launched subscription offer codes."[53]

This fails to convince. Regardless of the small adjustments that Apple might make to IAP (e.g., the available pricing tiers), it will remain a one-size-fits-all solution – it is unilaterally designed by Apple to apply to all customers of all iOS apps that are deemed to offer "*digital goods or services*", even if it does not correspond to their needs. The imposition of IAP prevents what competition can offer: among others, flexibility, innovation, and the development of bespoke solutions by providers. In addition, improvements such as those referred to by Apple will always depend on its goodwill. Thus, the only way to offer flexibility, choice and freedom to app developers is to allow them to opt for the in-app payment system they prefer.

(b) Remarks related to the consequences of the confiscation of the customer relationship by Apple

Match Group would like to refer to two major consequences of the mandatory use of IAP and the disintermediation of app developers from their users that comes with it: first, the reduction of competition between apps and, second, the difficulties encountered by app developers in detecting fraud on their platforms.

First, **the confiscation of the customer relationship when IAP is used leads to reduced competition among apps as the quality of customer service (which is now confiscated by Apple) can be an important differentiator for apps.** When IAP is used and Apple takes the reins of the customer relationship, all users get the same sub-par service. App developers cannot serve their customers and thus cannot seek to obtain a competitive advantage by offering an impeccable

53 Id., paragraph 6.189.

customer service. What is worse, Apple does not get sanctioned for the poor service it offers, both because users will blame app developers for the negative customer experience and because Apple faces no competition within its ecosystem. But for app developers, the reputational harm they suffer because of Apple's insufficient handling of customer care services may well lead to loss of future business. Users often publicly express their dissatisfaction, which may deter other users from signing up to the developers' app. In addition, in the case of dating apps, once a relationship has ended, users may start using a dating app again. If they, however, were not satisfied with the customer service they received when using the app (which they associate with the app developer and not with Apple), they will not return to the same app but choose another app among the hundreds available in the App Store. This friction directly causes harm to the app developer, which is blamed for the poor service, while safeguarding Apple's revenue stream.

Second, **by interposing itself between app developers and their users and refusing to share valuable user data, Apple hinders app developers', including Match Group's, fight against fraud on their platforms**. Match Group is highly concerned about user safety on its platforms and devotes significant resources to prevent fake profiles from accessing its platforms and/or communicating with its users.

This has been acknowledged by the ACM, which, in its investigation over Apple's app store practices in relation to dating apps, found that the mandatory use of IAP makes it "*much harder for dating-app providers to do background checks, which is of significant importance to dating-app providers, considering safety, age checks and malevolent users.*"[54]

(c) Remarks related to the anti-steering rules

While the CMA recognizes the consumer harm stemming from the anti-steering rules that prevent app developers from informing their users about alternative purchasing options, it states that it "*continue[s] to assess whether these anti-steering rules are necessary to support Apple's and Google's incentives to make investments in their app stores and if these incentives would remain if the anti-steering rules did not apply to app developers.*"[55] Match Group believes that the answer is negative.

In this regard, Match Group would like to point out the inconsistency in Apple's and Google's argument: on the one hand, Apple and Google claim that "*the anti-steering rules are a way of*

54 See Autoriteit Consument & Markt ("ACM"), "Summary of decision on abuse of dominant position by Apple, available at https://www.acm.nl/sites/default/files/documents/summary-of-decision-on-abuse-of-dominant-position-by-apple.pdf, paragraph 16.

55 Interim Report, paragraph 6.221.

preventing other distribution channels from free riding on their investments."[56] On the other hand, Apple has built a system whereby 85% of apps are not subject to the mandatory use of IAP and the payment of the related commission – i.e., they are allowed to "free-ride" on the 15% of apps distributed through the App Store that are subject to the mandatory use of IAP and the related marketing restrictions. Google is moving in the same direction, taking steps to enforce a payment policy similar to Apple's whereby all app developers selling digital goods or services should use GPB and pay Google a commission, while apps selling physical goods or services do not have to do so.

In addition, if Apple and Google were consistent, they should not be concerned that banning anti-steering rules would lead to them losing the ability to charge a commission (and thus to their "free-riding" concerns being materialized), considering the numerous advantages IAP and GPB allegedly provide. If IAP's and GPB's advantages are indeed significant (which is what the app store providers convey to regulators), users will stick to these in-app payment systems. If they are minor or non-existent, Apple's and Google's commission tied to the use of these in-app payment systems will be competed away.

IV. Potential interventions

Match Group provides below its comments on the potential interventions considered by the CMA in the Interim Report. Match Group will focus, in particular, on remedy areas 1, 2 and 4, as these concern anticompetitive practices adopted by Apple and Google with which Match Group is familiar.

As an overarching remark, Match Group would like to note that it is both possible and reasonable that all the benefits identified by the CMA would be unlocked as the result of the introduction of more competition and choice within mobile ecosystems (i.e., unlocking transformative innovation, improving consumer choice, delivering lower prices to consumers and improving consumer experience).[57] The CMA also correctly notes that risks highlighted by Apple and Google (i.e., increased security risks, privacy risks, risks of worse user experience and adverse effects on consumer trust)[58] are easily avoidable. Match Group would not propose or support any interventions that would increase security risks or that would negatively affect user experience or trust. We count on the trusted relationship we have built over the years with our users due to our continuous efforts to offer valuable products. Match Group would not risk losing this by advocating for interventions that would go in the opposite direction, and which would harm the security of and user experience in Apple's and Google's ecosystems on which Match Group is dependent to reach

56 Id., paragraph 6.220.

57 Id., paragraph 7.26.

58 Id., paragraph 7.27.

its user base. Our view is that many of the risks claimed by Apple and Google are overblown and, to the extent they exist, they can be addressed, as will be explained below.

A. Remedy area 1: interventions relating to competition in the supply of mobile devices and operating systems

Under this theme, the CMA aspires to foster competition between devices using different mobile operating systems, by considering (i) remedies targeted at making switching between operating systems easier,[59] and (ii) remedies targeted at barriers for rival providers of mobile operating systems.[60]

Match Group welcomes demand-side interventions which would ensure that "*many of the key features of mobile devices that users value (eg data, apps, app content and subscriptions) can be easily transferred to and subsequently accessed on an alternative device.*"[61] Based on its own experience, Match Group would like to support, in particular, interventions that would require Apple and Google to "*allow users to make in-app payments to their app provider directly or allow greater choice of third-party payment providers, which might make transferring subscriptions between iOS and Android devices more straightforward.*"[62] One of the consequences of the mandatory use of IAP and GPB is that they insert friction in *managing* subscriptions: if a user has purchased a subscription on an iOS device but then switches to an Android device, they will not be able to cancel or upgrade their subscription on Android – instead the cancellation or upgrade should happen through the iOS device. Such limitations in the management of subscriptions do not exist for subscriptions purchased through the app developers' own billing solutions or third-party payment solutions.

With regards to any potential adverse effects associated with such interventions, as Match Group has explained above, concerns raised by Apple and Google in support of the imposition of their payment systems (e.g., user benefits or that they are necessary in order for Apple and Google to receive their "rightful" commission) can be refuted or addressed.

However, Match Group would like to note that while remedies designed to make switching between the iOS and the Android operating systems easier are certainly desirable, there may be limits as to what can reasonably be achieved in practice, given that users – and, in particular, iOS users – are likely to remain loyal to the ecosystem they have initially opted for. Thus, while we are supportive of such remedies designed to stimulate competition *between* ecosystems, introducing competition at the ecosystem level is likely to be a tall order. Hence, we believe that it is of utmost importance

59 Id., paragraphs 7.33 et seq.

60 Id., paragraphs 7.38 et seq.

61 Id., paragraph 7.33.

62 Id., paragraph 7.34.

to adopt interventions aimed at ensuring that effective competition is allowed *within* the iOS and Android ecosystems. When such competition is not possible or sufficient, interventions should prohibit Apple and Google from taking advantage of their gatekeeper power by dictating unfair terms and conditions to businesses depending on access to their ecosystems.

Similarly, while remedies aimed at addressing barriers for rival providers of mobile operating systems are welcome, alternative operating systems that were once proposed and sought market share (e.g., Blackberry and Palm) did not succeed, and we believe that, due to the fact that both Apple and Google are now even more deeply entrenched, the emergence of a third ecosystem that would compete with them seems unlikely.

B. Remedy area 2: interventions relating to competition in the distribution of native apps

Match Group strongly supports the CMA's intentions to consider interventions that would increase competition in the distribution of native apps.[63] We agree with the CMA that *"[t]he potential benefits from promoting alternative sources of competition in the distribution of apps are significant,"* as they would "*improve choice for users and could have the effect of reducing the extent of Apple's and Google's market power in app distribution*."[64] The CMA has considered the following interventions in this remedy area.

- ***Interventions relevant to Apple.*** The CMA has identified three potential interventions that might open up competition in the distribution of native apps:
  - (i) Requiring Apple to allow alternative app stores on iOS (which could either be made available through sideloading from the web or Apple would be required to allow them to be available from download from the App Store).[65]
  - (ii) Requiring Apple to allow sideloading of native apps on iOS.[66]
  - (iii) Requiring Apple to improve support for web apps within its ecosystem.[67]
- ***Interventions relevant to Google.*** The CMA has identified the following interventions for Google:

63 Id., paragraphs 7.48 et seq.

64 Id., paragraph 7.49.

65 Id., paragraph 7.52.

66 Ibid.

67 Id., paragraph 7.62.

(i) Breaking the link between Google's Play Store and the payments made under its Placement Agreements and Revenue Sharing Agreements.[68]

(ii) Removing restrictions on accessing third-party app stores through Google's Play Store.[69]

(iii) Imposing requirements on Google to make sideloading easier.[70]

Match Group generally supports these interventions but agrees with the CMA that allowing third-party app stores and sideloading are unlikely to be sufficient, on their own, to foster effective competition in the distribution of native apps.[71] The example of Google is representative of this concern: while alternative app stores are permitted on Android, the Play Store is the only one that has been successful. Third-party app stores may find it difficult to succeed because of the network effects on which the success of an app store depends. The App Store and the Play Store benefit from these network effects – and will continue to do so – even if Apple were to allow alternative app stores (which could either be made available through sideloading from the web or through the App Store) and Google were to remove restrictions on accessing third-party app stores through the Play Store. While Match Group is not familiar with this topic, it may be, however, that certain "specialized" app stores, e.g., gaming app stores, could become successful if allowed on iOS devices. This would potentially allow effective competition in the distribution of – at least – some types of native apps.

Sideloading is a more promising alternative, but, as the example of Android has shown, it comes with its own set of challenges, mainly the lack of a frictionless downloading experience and a requirement for users to bypass the security settings of the device to be able to sideload an app. Thus, if sideloading were to be a credible alternative to app distribution through app stores, requirements should be imposed to ensure that Apple (and Google) would not introduce unnecessary friction in the process to dissuade users from using this distribution channel. Apple (and Google) have raised – and we expect that they will continue to raise – security concerns. Match Group agrees that a proper framework should be put in place to ensure the security of users and the integrity of the device while allowing for direct downloads of apps. However, the security risks referred to by Apple are generally overblown and largely used by it as a pretext to maintain its control over (the various layers of) its ecosystem. As explained in Part II above, there are ways for Apple to ensure the security of users and the integrity of its devices without maintaining its monopoly over app distribution.

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68 Id., paragraph 7.54.

69 Id., paragraph 7.54.

70 Ibid.

71 Ibid.

On the issue of web apps, Match Group would like to note that even if Apple were to lift all limitations currently imposed on web apps, it would still be a challenge for users to be "re-trained" to use web apps when they have been used to using apps for accessing content on their mobile devices. In addition, even if restrictions identified by the CMA were lifted, web apps would not be a substitute to native apps, as they would still lack the functionality of native apps.

C. Remedy area 4: interventions relating to the role of Apple and Google in competition between app developers

Match Group generally welcomes the interventions considered as part of this remedy area, which fall under three categories: (i) interventions designed to address Apple's and Google's ability to harm competition through the operation of their app stores, (ii) interventions to address concerns related to in-app payment systems, and (iii) separation remedies designed to address the leveraging of market power into app development. In the following sub-sections, we provide comments on interventions under the first two categories which are relevant for Match Group. Finally, we make some general observations about the effectiveness of any interventions adopted under remedy area 4.

1. Interventions designed to address Apple's and Google's ability to harm competition through the operation of their app stores

The CMA is considering interventions that would ensure a "***fair and transparent app review process***,"[72] including requirements for Apple and Google to do more to:

> "(i) ensure a consistent application of their relevant app developer guidelines; (ii) ensure a sufficient level of transparency over the reasons for any rejection of an app, or any requirement to make changes to an app as a condition of approval; and (iii) ensure that they deal with developers and device manufacturers on fair and reasonable terms, and do not unduly discriminate between or apply different standards to app developers."[73]

Match Group fully supports such an intervention,

What is particularly important, as the CMA correctly points out, is that the "*app review process [be] not only clear and transparent, **but also fairly designed and implemented**.*"[74] Fairness in the

72 Id., paragraph 7.84.

73 Id., paragraph 7.85.

74 Id., paragraph 7.86 [emphasis added].

design but also the implementation of the app review process is of utmost importance if harms to competition are to be effectively addressed. It may, therefore, also be necessary for the regulator to explicitly lay out the standards app review processes should meet, Match Group contends that having a fair and transparent app review process is a prerequisite for the success of other remedies, for instance, those aimed at introducing choice of payment systems or allowing communications between app developers and their users. Absent fairness in the app review, whatever remedies are adopted may be fruitless .

Another intervention considered by the CMA which Match Group fully supports is that Apple and Google be required to "*not unreasonably share information from one part of their business (the app store or app review process) to their app development businesses.*"[75] While Match Group has not so far been harmed by such practices as Apple and Google do not currently offer apps that compete with Match Group portfolio apps, if Apple and Google were to launch dating apps, they could have a head start by using the market intelligence they have acquired through the operation of their app stores, the app review process and their in-app payment systems (and they could then also undercut prices as they force us to pay 30% of our revenues to them).

2. Interventions to address concerns with in-app payment systems

Match Group fully supports the CMA's consideration of interventions that would "*prevent Apple and Google from unreasonably restricting the choice of in-app payment services available to developers and users.*"[76] Match Group completely agrees with the CMA's proposition that a "***greater choice of in-app payment options***" should be allowed, enabling app developers to "*choose their own payment service provider and have a direct selling relationship with the user, rather than require them to exclusively use Apple's and Google's own payment system.*"[77] As the CMA correctly points out, what is important is that app developers have a *choice*: those app developers that wish to (exclusively) use Apple's or Google's in-app payment systems should continue to be able to do so, while those that prefer the flexibility and conditions offered by other payment systems should be able to freely opt for them. Similarly, the varying preferences of consumers would also be respected and addressed by allowing greater choice of in-app payment options: those users who see value in using IAP or GPB would have the opportunity to make in-app purchases through them, while those who do not, should have other options. Ultimately, what Match Group considers

75 Id., paragraph 7.89.

76 Id., paragraph 7.98.

77 Id., paragraph 7.99.

necessary, is that app developers and users be free to choose what payment option better fits their preferences and needs.

Match Group agrees with the CMA's observation that "*[f]ollowing this type of intervention, Apple and Google could seek alternative ways to collect a commission for the use of their app stores,*" which would entail the risk that "*Apple and Google find ways to introduce charges for use of their app stores that are less efficient or result in harmful unintended consequences.*"[78] However, as rightly noted by the CMA, there are "*viable alternative methods*" for Apple and Google to collect a commission for in-app payments, while allowing payment options other than IAP. [redacted] It should, therefore, be ensured that if Apple and Google try to find other ways to collect a commission, these ways should not lead to similar unfair and anticompetitive effects as those resulting from the mandatory use of IAP and GPB.

A second intervention considered by the CMA relates to the "***greater promotion of off-app payment options***," which would "*require Apple and Google to allow developers to refer users within an app to alternative ways to pay content and subscriptions outside of the app, for example allowing them to provide a link to where prices are lower on a website.*"[79] Match Group agrees with this intervention, which would allow app developers to inform consumers about alternative purchasing channels and better prices on the web. With regards to the free-riding concerns expressed by Apple and Google in support of their anti-steering rules, Match Group would like to note that Apple and Google already have a system in place which allows unequitable free-riding by the vast majority of apps that are distributed through the App Store, since, first, app developers whose apps offer physical goods or services have a free choice of payment options and are not restricted in their communications with users, and second, app developers who rely on ad-funded business models are not subject to the IAP requirement and the related commission (even if similar services which are monetized through subscriptions are subject to the IAP obligation). It is thus ironic that Apple and Google are so concerned about free-riding when they have construed a business model based on free-riding by the majority of apps in their app stores.

Finally, Match Group would like to note that the ACM found that Apple's objectives for imposing on app developers the obligation to use IAP as well as the anti-steering rules, namely "*the ability to exploit commercially the App Store, […], and safeguarding quality, privacy, and safety*", could be achieved in other less harmful ways. In other words, the conditions imposed by Apple were found to be harmful to (dating) app developers and "*not necessary for the objectives Apple says it pursues.*"[80]

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78 Id., paragraph 7.101.

79 Id., paragraph 7.102.

80 ACM, "Summary of decision on abuse of dominant position by Apple, available at https://www.acm nl/sites/default/files/documents/summary-of-decision-on-abuse-of-dominant-position-

3. Observations as to the effectiveness of any adopted interventions

For any adopted interventions to be effective and have an impact in practice, it is crucial to ensure that there would be no space for Apple (or Google) to avoid compliance. Apple, in particular, has generally tried to avoid compliance with laws and regulations that it does not agree with. For example, in Korea, Apple initially refused to comply with the amended Telecommunications Business Act which required it to refrain from forcing app developers to use IAP, maintaining for several months that its current system – whereby app developers offering digital goods or services have to use IAP – complies with the law (!) and refusing to submit to the Korean Regulator an implementation plan, as required by the law. In January 2022 (that is, almost four months after the law came into effect), Apple finally agreed to submit an implementation plan to the Korean Regulator, although the specifics of this plan are not yet publicly available.

In addition, it is of utmost importance that Apple and Google do not have the freedom to circumvent any interventions by adopting alternative rules that are equally anticompetitive and/or unfair.

V. **Conclusion**

Match Group would like to congratulate the CMA for the excellent work it has carried out so far within the context of the mobile ecosystems market study and its comprehensive Interim Report, which thoroughly discusses the competitive environment *between* and *within* mobile ecosystems. We are grateful for the opportunity to provide our views on the Interim Report, and we encourage the CMA to continue its work as quickly as possible. We remain at the CMA's disposal for any further information that may be needed to inform its final findings.

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by-apple.pdf, paragraph 19.