CMA Mobile Browsers and Cloud Gaming Market Investigation
Working Paper 7 - Meta Response
Submitted 5 September 2024

1. Introduction

1.1. This submission provides Meta's views and feedback on the Competition and Markets Authority's (**CMA**) Working Paper 7 (**WP7**) in the context of its Mobile Browsers and Cloud Gaming Market Investigation (**MBCG Market Investigation**).

1.2. In this submission, Meta seeks to provide specific feedback on certain of the potential remedies proposed in WP7 in order to assist the CMA's work in this area. For efficiency, Meta has focused its feedback on remedy options A1-4, B3, and B5-B6.

2. Remedy Options A1 – A3: Potential remedies addressing Apple's WebKit restriction (Issue 1)

2.1. Meta welcomes the CMA's proposals for addressing Apple's WebKit restriction, which artificially restricts competition in mobile web browsing.

2.2. Meta does not consider options A1 or A2 to be viable remedies, for the following reasons:

(a) Option A1 is highly unlikely to be effective, exactly for the reasons that WP7 articulates. [REDACTED],[1] [REDACTED].[2]

(b) Option A2 is also unlikely to be effective for the same reason (notwithstanding that it employs WebKit and Safari as a benchmark for equivalent access). [REDACTED].

2.3. Option A3 is more likely to be an effective remedy if appropriately designed. In particular:

(a) [REDACTED].

(b) [REDACTED][3].

2.4. More generally in relation to any remedy designed to address Issue 1:

(a) In connection with WP7 ¶5.54 et seq., Meta does not consider it appropriate to limit the beneficiaries of any remedy to "*browser apps main purpose of which [sic.] is to enable users of devices to access the web, view web pages and navigate by hyperlinks*". As we have previously outlined, there is no principled way to distinguish between "*dedicated browser apps*" and other apps that offer in-app browsing experiences,[4] and there is no rationale for restricting any remedy to a particular category of apps – particularly given [REDACTED] in-app browsing represents an important competitive

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[1] [REDACTED].
[2] [REDACTED].
[3] [REDACTED].
[4] Meta response to WP4, paras. 1.6-1.7 [REDACTED].

constraint on dedicated browser apps like Safari and Chrome, and it is therefore in the interests of consumers that in-app browsers can benefit from any remedy.[5]

(b)   In connection with WP7 ¶5.48 et seq., Meta supports the principle that any remedy should consider privacy considerations (in particular to ensure that third party developers can compete on privacy parameters with Apple's own services). However, it would be important that any privacy "baseline" that Apple may set for third-party browsers and browser engines should not grant Apple's products (either the Safari browser or the App Store) an undue advantage relative to competitors (third-party browsers and web apps), either by introducing unnecessary user friction for using third-party browsers and web apps [REDACTED], or by any other relative performance degradation. Should Apple consider that it is essential to impose certain baseline requirements that imply performance differences between its own services and those of third parties, it should be required to provide an objective justification for those requirements, and to develop solutions to mitigate any relative performance degradation.

(c)   In connection with WP7 ¶5.61 et seq., Meta does not believe that removing the WebKit Restriction would inherently threaten security and privacy standards within iOS (it appears only Apple provided comments in that vein). To the contrary, Meta believes that greater diversity in browser engines on iOS could actually enhance security, and we have outlined [REDACTED] the privacy and security enhancements that Meta has been able to introduce on Android using its own browser engine.[6] In fact, the WebKit Restriction has at times only worsened privacy and security issues on iOS, as Meta (and other developers) has been unable to protect its users by switching to an alternative browser engine where it has found security vulnerabilities within WebKit, and nor can it ensure that users have up-to-date technology (as it has no control over when WebKit is updated).

3.   **Remedy options B3-B6: Potential remedies addressing Apple's and Google's in-app browsing policies (Issues 4 and 6).**

3.1.   As the CMA will know, Meta has provided comments separately in connection with WP4 [REDACTED] that address a number of key areas relevant to the consideration of any of remedy options B3-B6.

3.2.   However, two points are important to reiterate in the context of remedy options B3-B6. First, and in connection with WP7 ¶ 6.1(b) ("*we do acknowledge that allowing bundled engine IABs may introduce security risks such that only app developers with significant resources could offer these securely*"), Meta does not agree with that finding. As discussed in our comments in response to WP4:[7] (a) there is no principled distinction to be drawn between "bundled engine IABs" on one hand, and dedicated browser apps with alternative browser engines on the other; and (b) there is no credible evidence that the former pose security risks that the

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[5]   Meta response to WP4, paras. 2.6-2.11 [REDACTED].

[6]   Most recently in Meta's response to WP4, para 3.4.

[7]   Meta response to WP4, paras. 1.6-1.7 and paras 3.1-3.4 [REDACTED].

latter do not. In that light, any remedy to address Issues 4 and 6 which does not apply equally to "bundled engine IABs" as to dedicated browser apps would have no foundation in the evidence and would not be in the interests of consumers.

3.3. Second, and in connection with WP7 ¶ 6.1(c): "*Apple's and Google's in-app browsing policies offer users limited choice and control in relation to which browser is used for in-app browsing implementations in native apps. This means that users are likely to provide a limited constraint in relation to competition between browsers for in-app browsing implementations (Issue 6)*." In Meta's view, this issue is misconceived and its consequences for the CMA's consideration of remedies are concerning. In particular:

(a) Users continually discipline the quality of in-app browsers by actively choosing the apps to which they devote their time and attention, and by actively choosing whether or not to browse in-app instead of switching out to other browsers. Meta and other developers have powerful incentives to improve the quality of their apps' in-app browsers (just as they have powerful incentives to improve the quality of other components of their apps).

(b) An in-app browser that crashes or renders pages slowly or incorrectly degrades an app's overall user experience, and increases the likelihood that users will shift their time and attention to competing apps (both dedicated browser apps and other apps), for example by switching out of Instagram to browse a brand's webpage on a dedicated browser app. Unsurprisingly, Meta has devoted, and continues to devote, considerable resources to improving its in-app browser. For example, [REDACTED]. These investments only make sense in a context where the quality of in-app browsers is continually disciplined by user choice.

(c) To the extent there is any restriction of competition between in-app browsers on iOS, that is because [REDACTED]. It is not because users have "*limited choice and control in relation to which browser is used for in-app browsing*". Therefore, the types of intrusive user-facing remedies that WP7 considers in the context of B5-B6 do not respond to an actual competition problem, and would only introduce needless user friction (as well as other harms), as we outline further below.

Option B3: A requirement for Apple to allow alternative, non-WebKit based webview IABs (including so-called "bundled engine" IABs using custom browser engines)

3.4. In principle, Meta supports this remedy if it is appropriately designed.

3.5. In that context, Meta assumes that this remedy would apply to developers of native apps with independent in-app browsers that incorporate alternative browser engines (like Meta's in-app browser). One interpretation of WP7 ¶ 6.1(b), and ¶ 21 (where the CMA identifies that Apple does not support alternative webviews as part of its compliance with the DMA), is that the CMA considers that B3 would only apply to developers of alternative webviews on iOS that are made available to other developers (rather than the developer's own native apps). If that is the case, Meta would not support that remedy. As Meta has outlined [REDACTED], in-app browsers of native apps like Meta's (including those using alternative browser engines)

represent an important dynamic competitive constraint on all mobile browsers, so any remedy to Issue 4 should apply to those developers.

3.6. Meta has provided comments in relation to WP4 that also apply to the statements at <u>WP7 ¶ 6.24, 6.25 and 6.26</u>. In particular:

(a) Meta does not believe either: (i) that there are good grounds for finding that "*the level of interest in this option [i.e. developing bundled engine IABs] appears low*"; or (ii) even if there were limited interest (*quod non*), that consumers would be best served by the CMA not pursuing a remedy that applied to such developers. If even a minority of developers (including successful developers like Meta) were to avail themselves of this remedy and, in doing so, help to drive dynamic competition with other browsers, that represents a significant consumer benefit (and in other circumstances, the CMA would diligently seek to preserve the possibility of those dynamic effects, consistent with its guidance).

(b) As we outline in paragraph 3.2 above, Meta does not agree with the findings either that "*webview IABs could have weaker security and privacy protections relative to remote tab IABs and dedicated browsers*" (<u>¶ 6.25</u>), or that there are "*greater security and privacy risks inherent to webviews and bundled engine IABs as compared to remote tabs IABs*" (<u>¶ 6.26</u>), and does not agree that such findings should support treating those two categories of developers differently. To Meta's knowledge, the CMA has not made any substantiated finding that opening a webpage on a remote tab IAB would represent a lower privacy risk than opening a webpage on a webview or bundled engine IAB, and such a finding would have to account for the fact that – with a remote tab IAB – a user's data may be shared with an <u>additional</u> third party (the provider of the remote tab IAB), which in principle could attract <u>more</u> (not less) privacy risk. Applying that false dichotomy in any remedy would also open the risk of abuse, because insofar as a remedy treats standalone browsers more favorably from a security or privacy perspective than in-app browsers, it would open the risk of malicious activity from browsers posing as standalone browsers (but which in reality represent a greater risk than many in-app browsers). The only relevant question should be what level of risk is posed by a given browser (be it a dedicated browser / remote tab IAB, or webview or bundled engine IAB).

<u>Options B5-B6</u>

3.7. Meta has two significant and overarching concerns with the remedies proposed at B5-B6:

(a) As we outline in paragraph 3.3(c) above, Meta does not agree that the restriction of competition between in-app browsers on iOS is materially driven by "*limited choice and control in relation to which browser is used for in-app browsing*".   Users continually discipline the quality of in-app browsers, and developers of in-app browsers have powerful incentives to improve their quality. Therefore, the types of intrusive user-facing remedies that WP7 considers in the context of B5-B6 do not respond to an actual competition problem, and would only introduce needless user friction (as well as other harms).

(b)   [REDACTED]:

   (i)   [REDACTED].

(ii)   In specific relation to option B5, it should be the responsibility of <u>individual app developers</u> – not the providers of the operating software – to make design changes to their apps to comply with any rules on how different browsing options should be presented within a native app. The benefits of in-app browsing largely derive from close integration between the relevant native app and the browsing experience, and the opportunity to innovate and experiment with respect to how native and web content are combined; this can be seen not only in experiences like Instant Articles on Facebook (where rich, interactive HTML-based articles are surfaced within a Facebook feed),[8] Watch & Browse (where video content can be played while a user continues browsing), in-development features like preview modes in Instagram (where a user can see a 'preview' of a webpage on the bottom of their screen while viewing a Reel, Profile page, or Story) [REDACTED] – all of which rely on an embedded webview – but also in core aspects of how an app operates, such as settings and help centre pages within Meta apps, or cloud gaming screens). A set of rules determined by the operating system would make all of this innovation and experimentation more difficult or even impossible.

3.8.   Therefore, while Meta supports measures that enhance users' awareness of the apps they are using (and would be supportive of an industry standard relating to the presentation of in-app browsing), it does not support many of the propositions in WP7 in the context of remedy options B5 and B6.

<u>Option B5: A requirement for Apple and Google to make users aware of being in an IAB by implementing changes to the interface or use disclosures</u>

3.9.   As explained in Meta's response to WP4, Meta supports measures that enhance users' awareness of the apps they are using. For example, to promote its users' sense of place, Meta recently implemented changes to its apps' user interfaces, displaying "Facebook" or "Instagram" in the IAB header (see Figure 1 in Meta's response to WP4). Meta would be supportive of an industry standard relating to the labeling of IABs to (further) differentiate the IAB experience from the experience of using a dedicated browser.

3.10.   However, Meta does not support several of the propositions outlined in WP7 in the context of option B5:

(a)   <u>WP7 ¶ 6.38</u>: "*A potential remedy option would be to require an 'information screen/ disclosure' to be presented to a user when opening a link to third-party content in an IAB that would provide an alert about the presence of an in-app browsing feature (for example, this may read 'This browsing experience is provided within the app and is not your default browser').*" This would not be in the interests of consumers, for several reasons:

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[8]   See here: https://www.facebook.com/formedia/blog/introducing-instant-articles

(i) It would add needless friction to the user experience and would, in Meta's experience, lead to a significant decline in user's proceeding with the browsing experience. In other contexts, [REDACTED].[9] This would, among other things, negatively impact advertisers by decreasing the effectiveness of their ads, to the ultimate detriment of consumers. Developers can increase users' awareness that they remain within an app through other, less intrusive measures, like those that Meta has recently implemented (as outlined above).

(ii) Any cautionary language similar to that proposed in ¶ 6.38 (*'This browsing experience is provided within the app and is not your default browser'*) could convey the misimpression that continuing with the in-app browsing experience is in some sense aberrant, inferior, or otherwise unsafe (relative to the default browser). Similar cautionary screens or disclosures are not provided when an app relies on other natively supported functionalities (e.g. its own digital assistant, rather than the default digital assistant that a user may set on an Android device),[10] and there is no basis to intrude on the user experience in this way in the context of in-app browsing. In fact, imposing such cautionary screens or disclosures would be likely only to diminish developers' incentives to build their own natively supported functionalities (because of the risk that users are dissuaded from using them), and instead rely on the default (thereby diminishing investment, innovation, and competition).

(b) <u>WP7 ¶ 6.39</u>: "*An alternative remedy would be to require operating system providers to visually change the design of the in-app browsing interface to differentiate in-app browsing from the dedicated browsing experience.*" As outlined above, Meta does not consider it appropriate to vest Apple and Google (as providers of the operating system) with responsibility for designing and implementing any such changes, although Meta would be supportive of industry standards relating to those matters. It is also not clear whether the CMA would expect those rules to be applied to implementations of remote tab in-app browsers, or whether those would be considered part of a "*dedicated browsing experience*". This is important because, to the extent there are concerns that some users are unaware of which browser they are using, those concerns apply equally to remote tab in-app browsers. [REDACTED].

<u>Option B6: A requirement for Apple and Google to implement user settings allowing users to opt-out of in-app browsing</u>

3.11. Meta does not support this remedy, for two principal reasons:

(a) **First**, as Meta has outlined [REDACTED], an in-app browser is the core element of many apps, and integral to the user experience. The first order effect of turning off in-app browsing would be to break every function of an app that relies on an in-app

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9   [REDACTED].

10   On Android devices, users can set a number of default apps, including a default digital assistant (<u>see here</u>). On iOS devices, users can only set default browsers and mail apps, though Apple plans to expand the number of defaults in connection with its DMA compliance plan.)

browsing experience, including all of the examples outlined at paragraph 3.7(b)(ii) above.

(b)   In that context, WP7 (including at ¶ 6.42 et seq.) fails to recognise the many other unintended consequences that would follow a remedy to disable in-app browsing at the device settings level. Those would include:

(i)   [REDACTED];[11]

(ii)   The privacy consequences of diverting to remote tab IABs provided by the default system browser (which, as we outline above, would in principle expose the user's data to an <u>additional</u> third party (the provider of the remote tab IAB) versus the *status quo*);

(iii)   Users would forego the many benefits of IABs as compared to dedicated browsers, including improved performance and stability (as outlined at paragraphs 2.2-2.5 of Meta's response to WP4);

(iv)   A potentially frustrating and confusing user experience, where users are routinely removed from their app's context and have to manually navigate back to their place in the app after concluding a browsing session;

(v)   Diversion of traffic to [REDACTED] dominant dedicated browser apps, further entrenching their position; and

(vi)   Diminishing or removing the incentives for app developers to innovate and develop their own IABs, which impose an important competitive constraint in the wider browser landscape (as previously explained).[12]

(c)   **Second**, the decision to turn off in-app browsing is not a decision that users are well-equipped to make, and therefore would not be meaningful or made on an informed basis, [REDACTED].

(d)   As we have outlined [REDACTED], many of the benefits of in-app browsers are technical or non-user-facing (for example, increased security, more reliable page rendering, a reduction in the incidence of crashing, etc.). While app developers are knowledgeable about and attuned to these considerations, users are generally not – and yet this remedy would remove the decision whether or not to use in-app browsing from the hands of app developers and place it in the hands of users. In this context:

(i)   The CMA's own evidence supports that users are not well-equipped to understand the merits and demerits of in-app browsing. For example: at ¶ 6.44, WP7 finds: "*user awareness and understanding of browsers is low and awareness and understanding of IAB is even lower [...] [this] may be because users find it technically complex to understand how dedicated browsers and in-*

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[11]   [REDACTED].

[12]   Meta response to WP4, paras. 2.6-2.11 [REDACTED].

app browsing work on mobile devices". At footnote 105, WP7 finds: "*[q]ualitative interviews with users showed that overall users have very low levels of awareness of in-app browsing, with users not interested in what is happening 'behind the scenes' when they are in an app.*" In these premises, WP7 is right to be concerned that "*increasing the visibility of the IAB experience [...] might potentially worsen the user experience overall*" (¶ 6.44).

(ii) Users are not typically invited to choose between other technical aspects of how an app operates. For example, users are not generally asked whether or not they wish the app to use on-premises servers or a public cloud-based solution, even though that is an area of significant diversity between apps which can affect the user experience. These are the types of "behind the scenes" decisions that developers are better equipped than users to make.

3.12. For all of these reasons, remedy option B6 would be genuinely anomalous and confusing, as well as likely to harm competition, innovation and investment.

4. Conclusion

4.1. As Meta has sought to explain to the CMA throughout this Market Investigation, IABs represent a significant and positive development for competition and consumers. IABs have a proven track record of delivering benefits in terms of enhanced user experience, security and safety. These benefits are tangible, significant, sustained and substantiated.

4.2. Meta is grateful for the opportunity to comment on the CMA's current thinking with regards to potential remedies in this area, and hopes that this submission proves useful in informing the CMA's next steps.

4.3. It is vital that, in designing any remedies, the CMA takes steps to preserve the competitive constraint exerted by IABs on the dominant browser providers, for the ultimate benefit of consumers. Equally, it is imperative that the CMA does not pursue measures that limit developers' freedom to utilize IABs. The only beneficiaries of such measures would be the dominant browsers, and the only effect would be to entrench their position. That would be an unfortunate and counterproductive outcome of this Market Investigation.