

Brussels, 9.6.2026
C(2026) 4020 final

PUBLIC VERSION

COMMISSION DECISION

of 9.6.2026

relating to a proceeding under Article 102 of the Treaty on the Functioning of the European Union ("TFEU"), Article 54 of the EEA Agreement and Article 8 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty

(AT.41034 – Exclusion of AI competitors from WhatsApp)

(Only the English text is authentic)

(Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union¹,

Having regard to the Agreement on the European Economic Area, and in particular Article 54 thereof,

Having regard to Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty², and in particular Article 8 and Article 24 thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area, and in particular Article 5 thereof,

Having regard to the Commission decisions of 4 December 2025 and 15 April 2026 to initiate proceedings in this case,

Having given the undertaking concerned the opportunity to make known its views on the objections raised by the Commission pursuant to Article 27(1) of Regulation (EC) No 1/2003 and Article 12 of Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the Treaty³,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

Having regard to the final report of the hearing officer in this case,

¹ OJ, C 115, 9.5.2008, p.47.

² OJ L 1, 4.1.2003, p. 1. With effect from 1 December 2009, Articles 81 and 82 of the EC Treaty have become Articles 101 and 102, respectively, of the Treaty on the Functioning of the European Union. The two sets of provisions are, in substance, identical. For the purposes of this decision, references to Articles 101 and 102 of the TFEU should be understood as references to Articles 81 and 82, respectively, of the EC Treaty when where appropriate. The TFEU also introduced certain changes in terminology, such as the replacement of "Community" by "Union" and "common market" by "internal market". Where the meaning remains unchanged, the terminology of the TFEU will be used throughout this decision.

³ OJ L 123, 27.4.2004, p. 18.

Whereas:

1. INTRODUCTION

- (1) This decision sets out the European Commission's (the "Commission") findings that the conduct of Meta Platforms, Inc. is *prima facie* breaching Article 102 of the Treaty on the Functioning of the European Union and Article 54 of the Agreement on the European Economic Area ("EEA Agreement") and that the likely damage resulting from such infringement is such as to give rise to a situation of urgency justifying the adoption of interim measures pursuant to Article 8 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty ("Regulation No 1/2003"). Meta Platforms, Inc. together with its subsidiaries are referred to in this decision as "Meta".

2. PARTIES TO THE PROCEEDINGS

2.1. The addressee of the decision

- (2) Meta is a multinational technology company specialised in Internet-related services and products that include personal social networking services, online advertising technologies, online communication apps, virtual and augmented reality products and photo and video-sharing functionalities. It offers various services throughout the EEA, bringing together different apps and technologies within one undertaking.
- (3) Those services include Facebook, Facebook Messenger, Instagram and WhatsApp. Meta offers most of its services at no cost to end-users (consumers) ("Users") and the vast majority of its annual revenues globally is generated by offering ads space and related services (such as tools for designing and measuring the effectiveness of ads campaigns) to third parties.
- (4) Meta also provides a general purpose AI assistant, Meta AI⁴. Meta AI is available both as a standalone assistant - including via the website at meta.ai and a dedicated Meta AI app - and embedded directly within Meta's core applications such as WhatsApp, Facebook, Instagram, and Messenger. The assistant is built on Meta's large-language models and integrates Meta AI across devices (including voice interactions and integration with Meta's hardware such as smart glasses).⁵ In the EU, Meta AI was introduced on WhatsApp as of March 2025.⁶
- (5) Meta was founded in 2004 and is headquartered in the United States of America ("USA"), in Menlo Park, California. Meta Platforms, Inc. is incorporated in Delaware, USA.

⁴ Based on Meta's reply to question 1 of the Commission's request for information to Meta of 23 December 2025 (ID60), Meta AI is a set of optional, AI-powered features that are intended to enhance the user experience on Meta's services by giving users an additional way to discover and interact with content that is meaningful and relevant to them.

⁵ *Introducing the Meta AI App: A New Way to Access Your AI Assistant*, 29 April 2025, available at <https://about.fb.com/news/2025/04/introducing-meta-ai-app-new-way-access-ai-assistant/>, last downloaded on 28 January 2026 (ID237).

⁶ *Europe, Meet Your Newest Assistant: Meta AI*, 19 March 2025, available at: <https://about.fb.com/news/2025/03/europe-meet-your-newest-assistant-meta-ai/>, last downloaded on 27 May 2026 (ID679).

- (6) Meta's 2025 worldwide revenues were USD 201 billion, of which USD 47 billion or 23% were generated in Europe (including Russia and Türkiye).⁷
- (7) WhatsApp was founded in Mountain View, California, USA in 2009 and it was acquired by Meta in 2014. It is an instant messaging service, which uses a network protocol - a defined set of rules and technologies - to facilitate secure and efficient data exchanges between users over the internet. It is available as an app and as a desktop version. Users can communicate via this service after registering their mobile number. They can send and receive text messages, photos, videos, documents, location, voice messages, as well as engage in voice and video calls.

2.2. The complainants

2.2.1. [...]

(8) [...]

(9) [...]

(10) [...]

2.2.2. [...]

(11) [...]

(12) [...]

2.3. The interested third persons

2.3.1. [...]

(13) [...]

(14) [...]

2.3.2. [...]

(15) [...]

(16) [...]

2.3.3. [...]

(17) [...]

(18) [...]

2.3.4. [...]

(19) [...]

(20) [...]

3. PROCEDURE

- (21) In October 2025, the Commission received market information following Meta's announcement⁸ of changes to the WhatsApp Business Solution Terms. The market

⁷ Meta Annual Report 2025, page 102, available at <https://investor.atmeta.com/financials/default.aspx>, last downloaded on 3 June 2026 (ID754).

⁸ Meta, *WhatsApp Business Solutions Terms*, updated 15 October 2025 (ID716).

information indicated that these announced changes would prevent third-parties' standalone general purpose AI assistants from using the WhatsApp for Business Application Programming Interface ("WhatsApp for Business API") in the EEA. Meanwhile, Meta's own AI service, Meta AI, would remain available through WhatsApp in the EEA. For AI providers already present on WhatsApp, the update would apply as of 15 January 2026, while for new AI providers (i.e., not yet using the WhatsApp for Business API), the update would apply already as of 15 October 2025.

- (22) On 4 December 2025, the Commission initiated proceedings⁹ in the present case within the meaning of Article 2(1) of Commission Regulation No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the TFEU ("Regulation No 773/2004") and Article 11(6) of Regulation No 1/2003 relating to the conduct of proceedings by the Commission pursuant to Article 102 TFEU and Article 54 of the EEA Agreement. This decision to initiate antitrust proceedings covered the EEA with the exception of Italy.¹⁰
- (23) Between 8 December 2025 and 20 March 2026, the Commission sent requests for information pursuant to Article 18(2) of Regulation No 1/2003 to Meta, AI providers and providers of consumer communication applications.
- (24) On 9 February 2026, [...] lodged a complaint against Meta pursuant to Article 5 of Regulation No 773/2004.
- (25) On 9 February 2026, [...] lodged a complaint against Meta pursuant to Article 5 of Regulation No 773/2004.
- (26) On 9 February 2026, the Commission adopted a Statement of Objections (the "SO"), in which it preliminarily concluded that Meta's conduct appeared, *prima facie*, to constitute an infringement of Article 102 TFEU and Article 54 of the EEA Agreement. Furthermore, the Commission determined that the likely damage resulting from this infringement is such as to give rise to an urgency justifying the adoption of interim measures pursuant to Article 8 of Regulation No 1/2003.
- (27) On 2 March 2026, Meta submitted its response to the SO (the "SO Response").
- (28) On 15 April 2026, the Commission decided to extend the geographic scope of its investigation to Italy and to also investigate any changes of Meta's conduct since the initiation of proceedings, as regards the terms applicable to the use by third party AI providers of the WhatsApp for Business API.¹¹
- (29) On that same date, the Commission issued the Statement of Objections supplementing the SO (the "SSO"), wherein it assessed Meta's announcement of 4 March 2026 to reinstate conditional access to WhatsApp for third party AI assistants, subject to the payment of a fee.¹² In the SSO, the Commission reached the preliminary conclusion that Meta's fee-based access policy is in effect equivalent to the previous access ban assessed in the SO. Consequently, the Commission confirmed its intention to impose

⁹ Initiation of proceedings decision of 4 December 2026, available at: https://ec.europa.eu/competition/antitrust/cases1/202551/AT_41034_23.pdf.

¹⁰ The Italian Competition Authority had itself initiated proceedings in the matter and had adopted interim measures.

¹¹ Initiation of proceedings decision of 15 April 2026, available at:

https://ec.europa.eu/competition/antitrust/cases1/202617/AT_41034_606.pdf.

¹² *New pricing policy for AI Providers leveraging the WhatsApp Business Platform*, Meta, available at <https://developers.facebook.com/documentation/business-messaging/whatsapp/pricing/ai-providers/>, last accessed on 25 March 2026 (ID433).

interim measures to prevent serious and irreparable harm to competition.

- (30) On 23 April 2026, Meta submitted its response to the SSO (the “SSO Response”) and requested an oral hearing to be held. The oral hearing was held on 5 May 2026.
- (31) On [...], Meta informed¹³ the Commission that it would restore free access to the WhatsApp for Business API for general purpose AI assistants in the EEA, for a period of one month starting on 13 May 2026, a period during which Meta and the Commission would discuss with the view to determining whether the case could be subject to Article 9 commitments proceedings.
- (32) Following its assessment of Meta’s proposal, the Commission determined that the proposal [...]. On [...], the Commission shared its assessment with Meta. Meta responded on [...]¹⁴, [...] with a [...]. This [...] was sent to the Commission also on [...] with an [...]. Meta’s [...]. As such, it does not address the Commission’s concerns.

4. THE WHATSAPP FOR BUSINESS APPLICATION PROGRAMMING INTERFACE

- (33) WhatsApp offers businesses the possibility to reach consumers using a portfolio of business communication solutions. The WhatsApp for Business API, launched by Meta in August 2018, is part of WhatsApp’s suite of business communication services. The WhatsApp for Business API is the interface through which businesses connect their own systems to WhatsApp.
- (34) Initially designed for medium and large businesses to message customers at scale based on an API which was not publicly accessible, and the availability of which was limited to select business solution providers, as of May 2022, with the launch of the WhatsApp Cloud API, Meta made the WhatsApp for Business API openly available to businesses of all sizes worldwide.¹⁵
- (35) In order to use the WhatsApp for Business API, companies are required to provide information that includes a verified Meta Business Manager Account, a WhatsApp Business Account and an official WhatsApp for Business API number. Companies must also submit to Meta for approval templates for outbound communication with Users.
- (36) The API is the commercialised part of WhatsApp and as such it contributes to monetising the service. Businesses using the API are charged on a per-message basis and therefore the more messages are sent, the more revenues WhatsApp generates. Initially, until November 2024, charges were applied per conversation (defined as 24-hour message thread between businesses and their customers), not per individual message sent or received. Conversations were opened and charged when messages sent by businesses to customers were delivered. On 1 November 2024, customer- initiated conversations became free for all businesses, “*including via AI-enabled conversational experiences.*”¹⁶ As of 1 July 2025, Meta changed its pricing policy for the WhatsApp for Business API and moved from a conversation-based pricing model to a per message charging model. Since then, Meta charged on a per-message basis. Meta did not charge

¹³ [...] (ID738-2).

¹⁴ [...] (ID736-2).

¹⁵ *Meta launches WhatsApp Cloud API & premium features for businesses worldwide*, Best Media Info, 20 May 2022, available at <https://bestmediainfo.com/2022/05/meta-launches-whatsapp-cloud-api-premium-features-for-businesses-worldwide>, last downloaded on 21 January 2026 (ID174).

¹⁶ *Conversation-based pricing (DEPRECATED)*, available at <https://developers.facebook.com/documentation/business-messaging/whatsapp/pricing/conversation-based-pricing>, last downloaded on 21 January 2025 (ID177).

when businesses sent service¹⁷ or utility¹⁸ messages in response to Users (within a 24-hour customer service window). Businesses could respond via service (free-form) messages to Users within the 24-hour customer service window at no charge. In practice, this meant that businesses using service and utility forms of messaging were available to and could engage with their customers on WhatsApp, including via AI-enabled conversational experiences, at no charge.¹⁹

- (37) From 2023 onwards, a growing number of companies began to use the WhatsApp for Business API to distribute general purpose AI assistants. For example, Microsoft launched Copilot on WhatsApp in September/October 2024;²⁰ OpenAI launched ChatGPT on WhatsApp in December 2024;²¹ Perplexity AI has been officially available on WhatsApp since April 2025.²² Smaller, start-up AI assistants have also integrated with WhatsApp. For instance, the AI assistant Luzia globally launched in April 2023 on WhatsApp;²³ and the AI assistant Poke has been available on WhatsApp since its public launch in September 2025.²⁴ From November 2024 to 15 October 2025, messages sent by general purpose AI assistants in response to users' queries were classified by Meta as service messages and were not subject to any charges.

5. META'S CHANGES TO THE WHATSAPP BUSINESS TERMS OF SERVICE

- (38) Businesses wishing to use WhatsApp to interact with customers are subject to the WhatsApp Business Terms of Service and the WhatsApp Business Solution Terms. Before 15 October 2025, these terms did not provide for any limitation for third party general purpose AI assistants.²⁵
- (39) On 15 October 2025, Meta published an update to the WhatsApp Business Solution Terms, introducing a provision which prevents standalone general purpose AI assistants from using the WhatsApp for Business API ("the Policy Change").
- (40) The provision is directed at "*AI Providers*",²⁶ a category defined in broad, vague and

¹⁷ Service messages enable businesses to manage incoming customer inquiries. Unlike other categories, these messages are not based on a predefined template. (Meta's submission to the Commission of 15 December 2025, paragraph 2.1 (ID25)).

¹⁸ Utility messages are typically triggered by a user action, like placing an order or submitting a payment. These messages are not promotional and are either specific to or requested by a user (e.g. a package delivery update) or critical to a user (e.g. a tornado warning). Utility messages are based on preset templates. (Meta's submission to the Commission of 15 December 2025, paragraph 2.1 (ID25)).

¹⁹ *Pricing on the WhatsApp Business Platform*, effective as of 1 July 2025, available at <https://developers.facebook.com/documentation/business-messaging/whatsapp/pricing>, last downloaded on 22 January 2026 (ID167).

²⁰ [...] to question 5 of the Commission's request for information to AI providers of 17 December 2025 (ID128-1).

²¹ [...] to question 5 of the Commission's request for information to AI providers of 17 December 2025 (ID258-2).

²² Meta's reply to question 2 of the Commission's request for information to Meta of 8 December 2025 (ID24).

²³ [...] to question 5 of the Commission's request for information to AI providers of 12 December 2025 (ID111-1).

²⁴ [...] to question 5 of the Commission's request for information to AI providers of 12 December 2025 (ID98-1).

²⁵ *WhatsApp Business Terms of Service* (16 February 2024), available at <https://www.whatsapp.com/legal/business-terms/>, last downloaded on 21 January 2026 (ID178); and *WhatsApp Business Solution Terms* (13 February 2025), available at <https://www.whatsapp.com/legal/business-solution-terms/revisions/20250213>, last downloaded on 21 January 2026 (ID179).

²⁶ "*AI Providers. Providers and developers of artificial intelligence or machine learning technologies, including but not limited to large language models, generative artificial intelligence platforms, general-purpose artificial intelligence assistants, or similar technologies as determined by Meta in its sole discretion*

non-exhaustive terms. Meta has “*sole discretion*” to capture any company using general purpose AI as an “*AI Provider*”. In contrast, it does not affect businesses using AI technologies “*incidentally*” or in an “*ancillary manner*”. Those businesses can remain on WhatsApp. The Commission understands that this might be the case, for example, for a travel agency running an AI chatbot to answer customer questions or send updates. However, the Policy Change allows Meta to determine the boundaries of an “*incidental*” or “*ancillary*” use “*in its sole discretion*”.

- (41) This update took effect immediately (on 15 October 2025) for new AI provider business users of the WhatsApp for Business API, while, for pre-existing business users, it took effect from 15 January 2026.²⁷
- (42) [...], Meta notified some AI providers²⁸ identified to be caught by the Policy Change and [...]. In that period, those selected AI providers that Meta could identify [...].
- (43) Phone numbers with an Italian country code (a number with the country code +39) were exempted from the Policy Change, and general purpose AI assistants were thus allowed to continue messaging users with an Italian phone number over the WhatsApp for Business API. This exemption followed the interim measures decision adopted by the Italian Competition Authority on 23 December 2025 (“the AGCM Decision”).²⁹
- (44) The Policy Change did not affect the presence on WhatsApp of Meta’s own AI assistant, Meta AI. Meta AI [...] ³⁰, as a general purpose AI assistant.
- (45) On 4 March 2026, Meta published an update³¹ to the WhatsApp Business Solution Terms, introducing a pricing framework applicable to third party general purpose AI assistants operating via the WhatsApp for Business API (“the Revised Policy Change”). Under this framework³², Meta decided to charge, specifically “*in countries where Meta is legally required to support AI providers usage*”, per-message-based fees for non-template messages, generated by general purpose AI assistants. Meta has explicitly clarified that this change “*does not alter how or what Meta charges all other businesses using the WhatsApp Business Platform*” (i.e., businesses other than general purpose AI assistants). These fees are charged to AI providers, not to the end users who receive the messages. Meta informed the Commission in the SO Response that, in all EEA

(“AI Providers”), are strictly prohibited from accessing or using the WhatsApp Business Solution, whether directly or indirectly, for the purposes of providing, delivering, offering, selling, or otherwise making available such technologies when such technologies are the primary (rather than incidental or ancillary) functionality being made available for use, as determined by Meta in its sole discretion. Notwithstanding the foregoing, you may retain an AI Provider as your Third Party Service Provider in accordance with these WhatsApp Business Solution Terms. In such cases, you may not directly or indirectly allow Business Solution Data, including any anonymous, aggregate, or derived forms of Business Solution Data, to be used to create, develop, train, or improve any machine learning or artificial intelligence systems, models, or technologies, including large language models (collectively, “AI Models”); provided that you may use Business Solution Data to fine-tune an AI Model that is for your exclusive use, so long as this does not result in Business Solution Data being used to create, develop, train, or improve any other AI Models. We may terminate your account and revoke your access if we reasonably determine that you have breached these restrictions. This Section survives termination of these WhatsApp Business Solution Terms.”

Meta’s submission to the Commission of 15 December 2025 (ID25).

Based on Meta’s reply to Question 2 of the Commission’s RFI of 8 January 2026 (ID79), [...].

AGCM Decision in case A576 Meta AI.

Meta’s reply to question 1 of the Commission’s request for information to Meta of 23 December 2025 (ID143-3).

New pricing policy for AI Providers leveraging the WhatsApp Business Platform, Meta, available at <https://developers.facebook.com/documentation/business-messaging/whatsapp/pricing/ai-providers/>, last accessed on 25 March 2026 (ID433).

The Revised Policy Change took effect on 6 March 2026 and will be maintained by Meta until the earlier of the Commission closing the investigation or 6 March 2027 (see SO Response, paragraph 1.28 (ID438-8).

countries other than Italy, the Revised Policy Change (including the authorisation of general purpose AI assistants on the WhatsApp for Business API and the relevant fee) was applicable as of 6 March 2026.³³

- (46) Although no longer in effect at the date of adoption of this Decision, the Policy Change remains pertinent for the present decision. First, the Policy Change prompted the Commission's investigation. Meta subsequently adopted the Revised Policy Change only because the Commission had initiated an investigation into the Policy Change. Second, the Revised Policy Change will lose effect at the latest on 6 March 2027. It is not excluded – and it is even likely – that from this date and for the time remaining until the end of the interim measures period or until the adoption of a final decision in the main proceedings, Meta would revert to an outright refusal to provide access, as provided by the Policy Change.
- (47) Charges vary depending on the recipient's location, with pricing ranging from EUR 0.0490 to EUR 0.1323 per message, depending on the recipient's country code. The framework does not provide for any explicit price caps and allows Meta to revise applicable rates unilaterally.

6. CONDITIONS FOR ADOPTING INTERIM MEASURES

- (48) It is essential that the Commission's power to take decisions finding an infringement of Articles 101 or 102 TFEU and requiring that such infringement be brought to an end is exercised in the most effective manner best suited to the circumstances of each given situation.³⁴
- (49) Interim measures are conceived to prevent that the Commission's exercise of the power to adopt decisions finding that there is an infringement of Articles 101 or 102 TFEU becomes ineffective because of the action of certain undertakings.³⁵
- (50) Pursuant to Article 8(1) of Regulation No 1/2003, there are two cumulative conditions to be met for adopting interim measures, namely:
- (a) the finding of a *prima facie* infringement of competition rules, and
 - (b) the urgent need for protective measures due to the risk of serious and irreparable damage to competition.
- (51) As a third condition, in accordance with the case law, the envisaged interim measures³⁶ must be proportionate.
- (52) Pursuant to Article 8(2) of Regulation No 1/2003, a decision ordering interim measures shall apply for a specified period of time and may be renewed in so far as this is necessary and appropriate.
- (53) Section 7 sets out the Commission's conclusions regarding the *prima facie* finding of an infringement of European Union ("EU") competition rules by Meta. Section 8 sets out the Commission's conclusions regarding the urgent need for protective measures due to the risk of serious and irreparable damage to competition. Section 9 sets out the interim measures and Section 10 sets out the Commission's conclusions on the proportionality of the interim measures.

³³ SO Response, paragraphs 1.26-1.27 (ID483-8).

³⁴ Case C-792/79 R *Camera Care v Commission*, EU:C:1980:18, paragraph 17.

³⁵ Case C-792/79 R *Camera Care v Commission*, EU:C:1980:18, paragraph 18.

³⁶ See section 9 below.

7. **PRIMA FACIE FINDING OF AN INFRINGEMENT OF ARTICLE 102 TFEU AND ARTICLE 54 OF THE EEA AGREEMENT**

- (54) On the basis of the factual and legal analysis set out in sections 7.2, 7.3 and 7.5 below, the Commission reaches the conclusion that, *prima facie*, Meta has infringed Article 102 TFEU and Article 54 of the EEA Agreement.

7.1. **Principles**

- (55) The finding of a *prima facie* infringement is inherently not based on a full and final appreciation of the facts and law in question,³⁷ but rather on a preliminary factual and legal analysis indicating "at first sight" that the undertaking subject to the investigation exceeded the limits allowed to it by the applicable EU competition rules, thus giving rise to serious doubts as to the compatibility of its conduct with those provisions.³⁸ Therefore, the requirement of a *prima facie* infringement cannot be placed on the same footing as the requirement of certainty that a final decision must satisfy.³⁹ The finding of a *prima facie* infringement does not correspond to the finding of a "*clear and flagrant infringement*",⁴⁰ nor to the existence of a *prima facie* violation of the EU competition rules "*as a matter of probability*".⁴¹

7.2. **Market definition**

7.2.1. *Principles*

- (56) The definition of the relevant markets involves an identification of the relevant competitive constraints in terms of demand-side and supply-side substitutability.
- (57) From an economic point of view, for the definition of the relevant market, demand-side substitution constitutes the most immediate and effective disciplinary force on the suppliers of a given product and is therefore the main consideration when defining the relevant product market.⁴² Factors to be taken into account in that respect include the nature and technical features of the products or services concerned, the facts observed on the market, the history of the development of the products or services concerned and the undertaking's commercial practices.⁴³
- (58) From a demand-side perspective, a relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of the products' characteristics, their prices and their intended use.
- (59) However, supply-side substitutability may also be taken into account when defining markets in those situations in which its effects are equivalent to those of demand-side substitution in terms of effectiveness and immediacy. There is supply-side substitution when suppliers are able to switch production to the relevant products and market them in the short term without incurring significant additional sunk costs or risks when they switch production. When these conditions are met, the additional production that is put

³⁷ Case T-184/01 R *IMS Health v Commission*, EU:T:2001:259, paragraph 68.

³⁸ Case T-23/90 *Peugeot v Commission*, EU:T:1991:45, paragraphs 21, 63.

³⁹ Case T-23/90 *Peugeot v Commission*, EU:T:1991:45, paragraph 61; Case T-44/90 *La Cinq v Commission*, EU:T:1992:5, paragraph 61.

⁴⁰ Case T-44/90 *La Cinq v Commission*, EU:T:1992:5, paragraph 62.

⁴¹ Case T-184/01 R *IMS Health v Commission*, EU:T:2001:259, paragraph 68.

⁴² Commission Notice on the definition of the relevant market for the purposes of Union competition law (OJ C/2024/1645, 22.2.2024) (the "**Market Definition Notice**"), paragraph 23 a).

⁴³ Case T-201/04 *Microsoft v Commission*, EU:T:2007:289, paragraph 925.

on the market will have a disciplinary effect on the competitive behaviour of the companies involved.⁴⁴

- (60) The relevant geographic market comprises an area in which the undertakings concerned are involved in the supply and demand of the relevant products or services, in which area the conditions of competition are similar or sufficiently homogeneous and which can be distinguished from neighbouring areas in which the prevailing conditions of competition are appreciably different.⁴⁵

7.2.2. *The relevant product market*

- (61) For the purposes of this decision, the Commission reaches the conclusion that, *prima facie*, the relevant product markets are:

- (1) The market for consumer communication applications; and
- (2) The market for general purpose AI assistants.

7.2.2.1. *The market for consumer communication applications*

- (62) There is a broad category of services allowing some types of communication between consumers. These services include:⁴⁶

- (1) Consumer communication applications, which allow users to exchange messages, voice notes, images, videos and, in certain instances, make voice or video calls over the internet, primarily for personal use.
- (2) Enterprise communication services, which are used by business customers to improve workgroup and collaborative communications, and which are designed to provide a simple and consistent user experience across all types of communications (telephone, fax, email, voicemail, voice and videoconference, instant messaging, etc.).
- (3) Social networks, which, in addition to content sharing and social interaction functionalities, typically embed also messaging features.
- (4) Traditional electronic communication services, such as emails (typically used for formal, written, and asynchronous exchanges), voice calls over electronic communication networks, and text messages (Short Message Service and its evolutions: Multimedia Messaging Service and Rich Communication Services).

- (63) The Commission has considered the market for consumer communication applications in previous cases, notably in *Microsoft Teams*, *Microsoft / Skype*, *Microsoft / Nokia* and *Facebook / WhatsApp*. In those decisions, it reached the conclusion that consumer communication applications are distinct from other types of communication services,⁴⁷ in particular from enterprise communications services. However, the Commission

⁴⁴ Market Definition Notice, paragraph 32 and 33.

⁴⁵ See Commission Decisions in case COMP/37451, *Deutsche Telekom AG*, paragraphs 92-93; and case COMP/38.233, *Wanadoo Interactive*, paragraph 205. See also Case 27/76 *United Brands and United Brands Continental v Commission*, EU:C:1978:22, paragraph 44; Case 322/81 *Michelin v Commission*, EU:C:1983:313, paragraph 26, Case 247/86 *Alsatel v Novasam*, EU:C:1988:469, paragraph 15.

⁴⁶ For example, in Case M.7217 – *Facebook / WhatsApp*, the Commission has considered consumer communication applications, enterprise communication services, social networks and traditional electronic communication services as all allowing some types of communication between users.

⁴⁷ Commission decision of 12 September 2025 in Case AT.40721 – *Microsoft Teams*, recital 70 and AT.40873 – *Microsoft Teams*, recital 70, Commission decision of 7 October 2011 in Case M.6281 – *Microsoft / Skype*, paragraph 17; Commission decision of 4 December 2013 in Case M.7047 – *Microsoft / Nokia*, paragraph 43; Commission decision of 3 October 2014 in Case M.7217 – *Facebook / WhatsApp*, paragraph 34.

ultimately left the exact boundaries of the consumer communication applications market open, particularly with regards to the inclusion of traditional communication services and the communication component of social networks. In the *Facebook Marketplace* antitrust decision, the Commission took the view that consumer communication applications and personal social networking services do not belong to the same product market.⁴⁸

- (64) In the AGCM Decision, the Italian National Competition Authority defined a market for consumer communication services accessible via an application and considered such market to be distinct from social networks, traditional electronic communication services and Apple iMessage.⁴⁹
- (65) Consumer communication applications are characterised by the following features:⁵⁰
- (1) They operate over the internet, thus not requiring traditional electronic communication networks to function.⁵¹
 - (2) They are typically (but not always) offered free of charge to users and are typically monetised by offering API services to business users or via advertising.
 - (3) They support multimedia communications, allowing users to exchange text messages, voice notes, images, videos, location information (including live location), GIFs, and to perform audio and video calls.
 - (4) They allow for both one-to-one and group communications.
 - (5) They are typically device agnostic, and can therefore be used on desktops, laptops, tablets, and smartphones. Similarly, they are typically operating system agnostic.
 - (6) They typically provide online status indicators (showing when a user is active or "online"), "last seen" timestamps (indicating the last time a user was active on the app), and delivery and read receipts, which inform the sender when a message has been delivered and read by the recipient.
 - (7) They allow users to personalise to some extent their profile, for example by choosing a profile picture and a status.
- (66) A distinctive feature of consumer communication applications is precisely their offering of a comprehensive range of functionalities, which cumulatively exceeds the capabilities of other communication services. This responds to consumers' demand for communication services that seamlessly integrate multiple functions.
- (67) Considering these essential features and functionalities, as well as the decisional precedent listed in the recitals above, the Commission reaches the conclusion that, for the purpose of product market definition, consumer communication applications are *prima facie* distinct from enterprise communication services, social networks, email services and voice calls, which, for the reasons explained below, do not share many of these essential features and functionalities. For text messages (SMS, MMS, RCS) and Apple iMessage, which has been considered by the AGCM to belong to a different market (see recital (64)) above, the Commission considers it not necessary to decide

⁴⁸ Commission decision of 14 November 2024 in Case AT.40864 – *Facebook Marketplace*, section 4.3.5.

⁴⁹ AGCM Decision, section V.1.1.

⁵⁰ See for example AGCM Decision, paragraph 97, Commission decision of 3 October 2014 in Case M.7217 – *Facebook / WhatsApp*, paragraphs 16, 30 and 31.

⁵¹ Traditional electronic communication networks are fixed and mobile telecommunications networks, which are used to convey signals for voice telephony and SMS services.

whether, *prima facie*, they belong to the same product market as consumer communication applications. The Commission therefore leaves this question open for the purpose of this decision.

- (68) In the sub-sections below, the Commission begins by explaining why *prima facie* consumer communication applications do not belong to the same product market as enterprise communication services (section 7.2.2.1.1) and social networks (section 7.2.2.1.2). Next, it considers traditional communication services, and it explains that consumer communication applications do not belong to the same market as emails (section 7.2.2.1.3) and voice calls (section 7.2.2.1.4). Finally, the Commission explains that for the purpose of this decision, it can be left open whether SMS (and its evolutions) and Apple iMessage belong to the same relevant product market as consumer communication applications (sections 7.2.2.1.5 and 7.2.2.1.6 respectively).

7.2.2.1.1. *Consumer communication applications and enterprise communication services*

- (69) In line with its decisional practice, the Commission reaches the conclusion that, *prima facie*, consumer and enterprise communication services do not belong to the same product market.⁵² Consumer and enterprise communications services differ in terms of pricing and functional characteristics. Providers of communication services typically cater their products to either consumers or business users.
- (70) In terms of pricing, in *Microsoft / Skype* the Commission noted that “enterprises (in particular large companies) buy communication services sometimes at a very high price, whereas consumers are less willing to pay for a communication service offered on the Internet.”⁵³ The Commission also noted that the success of consumer communications applications depends to a large extent on whether they are offered free of charge.⁵⁴ Indeed, many consumer communication applications are currently offered for free, while enterprise communication services are either offered under payment of a periodic fee or via a freemium model, with a free version offering basic functionalities and full functionalities only available in the paid version.
- (71) In terms of functional characteristics, in *Microsoft / Skype* the Commission found that enterprise communication services have different requirements in terms of functionalities (e.g. they typically offer collaborating tools allowing the possibility to edit a document simultaneously within the app).⁵⁵ Enterprise communication services are also typically integrated with a calendar to keep track of upcoming meetings and allow users to schedule meetings in advance.
- (72) Finally, in *Microsoft / Skype*, the Commission also noted that only a limited set of players provide communication applications designed for both consumers and enterprises.⁵⁶
- (73) At the present stage of the investigation, the Commission has not found any indications that would call for a departure from the Commission’s decisional practice in previous cases and that enterprise communication services would be in the same product market as consumer communication applications.

⁵² Commission decision of 12 September 2025 in Case AT.40721 – *Microsoft Teams* and AT.40873 – *Microsoft Teams*, Commission decision of 7 October 2011 in Case M.6281 – *Microsoft / Skype*; Commission decision of 4 December 2013 in Case M.7047 – *Microsoft / Nokia*; Commission decision of 3 October 2014 in Case M.7217 – *Facebook / WhatsApp*.

⁵³ Commission decision of 7 October 2011 in Case M.6281 – *Microsoft / Skype*, paragraph 13.

⁵⁴ Commission decision of 7 October 2011 in Case M.6281 – *Microsoft / Skype*, paragraph 77.

⁵⁵ Commission decision of 7 October 2011 in Case M.6281 – *Microsoft / Skype*, paragraph 14.

⁵⁶ Commission decision of 7 October 2011 in Case M.6281 – *Microsoft / Skype*, paragraph 15.

7.2.2.1.2. Consumer communication applications and social networks

- (74) The Commission reaches the conclusion that, *prima facie*, consumer communication applications and social networking services do not belong to the same product market. Consumer communication applications and social networking services differ in terms of use cases and characteristics.
- (75) In *Facebook / WhatsApp*, the Commission found that while consumer communication applications offer certain elements which are typical of a social networking service, in particular sharing of messages and photos, there are important differences between the two services.
- (76) In particular, the Commission noted that social networking services tend to offer a richer social experience compared to consumer communication services. Furthermore, while both personal social networks and consumer communication services enable communication between users, the communication's functionalities and their usage differ. Finally, the Commission noted that personal social networking services tend to enable communication and information sharing with a wider audience than consumer communication services, which are more personal and targeted.⁵⁷ Ultimately, it nevertheless left open whether consumer communication applications and social networks could fall within the same product market.⁵⁸
- (77) In *Facebook Marketplace*, the Commission concluded that consumer communication applications and personal social networking services do not belong to the same product market. The Commission noted that “*consumer communication services have a very different user experience* [compared to personal social networking services].”⁵⁹ The Commission found differences in the main use case of the two services: while personal social networking services enable interaction with the whole network of a user's interpersonal connections, consumer communication applications are used primarily to maintain individual relationships. Such different use case is in turn reflected in different functional characteristics. For example, consumer communication applications have a much more limited user profile than personal social networking services. They also lack a social graph allowing users of consumer communication services to find unconnected users from their contacts' list and a shared social space – content is instead organised by individual chat conversations.⁶⁰ The Commission's assessment in *Facebook Marketplace* is also consistent with the conclusions of the Italian National Competition Authority in the AGCM Decision.⁶¹
- (78) At the present stage of the investigation, the Commission has not found any indications that would call for a departure from the Commission's decisional practice in previous cases and that social networks would be in the same product market as consumer communication applications.

7.2.2.1.3. Consumer communication applications and email services

- (79) The Commission reaches the conclusion that, *prima facie*, consumer communication applications and email services do not belong to the same product market. While both services enable written communication between users, as noted by the Italian National Competition Authority in the AGCM Decision, they differ significantly in terms of use

⁵⁷ Commission decision of 3 October 2014 in case M.7217 – *Facebook / WhatsApp*, paragraphs 50 and 53 to 56

⁵⁸ Commission decision of 3 October 2014 in case M.7217 – *Facebook / WhatsApp*, paragraph 62

⁵⁹ Commission decision of 14 October 2024 in case AT.40684 – *Facebook Marketplace*, paragraph 197

⁶⁰ Commission decision of 14 October 2024 in case AT.40684 – *Facebook Marketplace*, paragraphs 199, 200 and 203.

⁶¹ AGCM Decision, paragraph 94.

cases, interface design and integration with other productivity tools. Moreover, contrary to consumer communication applications, emails only support written communication.⁶²

- (80) First, email services are generally used for more formal, structured and asynchronous communications, often involving longer messages and the exchange of documents or other attachments. They are particularly suited for official correspondence. By contrast, consumer communication applications are designed for immediate, real-time, conversational exchanges, as evidenced by features such as typing and online status indicators, as well as read receipts.⁶³ In *Facebook / WhatsApp*, the Commission also considered that consumer communication applications provide additional functionalities to their users.⁶⁴
- (81) Second, while email services are accessible on both desktop and mobile devices, they are generally optimised for desktop use, where users can manage longer messages and more complex tasks. Consumer communication applications, by contrast, are primarily optimised for mobile devices and continuous interaction, prioritising speed, simplicity, and ease of use.⁶⁵
- (82) Third, email services are typically integrated with a wide range of productivity tools, such as calendars and task-management applications, making them a core component of business and professional workflows. On the contrary, consumer communication applications are designed as standalone services with limited interoperability with other productivity applications.⁶⁶

7.2.2.1.4. *Consumer communication applications and voice calls*

- (83) The Commission reaches the conclusion that, *prima facie*, voice calls and consumer communication applications do not belong to the same product market. Indeed, voice calls, being a type of electronic communications service, differ from consumer communication applications in terms of functionality and pricing.
- (84) First, voice calls perform a single, narrowly defined function, namely real-time oral communication between users. Consumer communication applications, by contrast, provide a multifunctional communication environment in which voice calls are only one element among several, alongside text-based communication and the exchange of multimedia content. Consumer communication applications also support persistent conversations and allow users to switch seamlessly between different modes of communication within a single interface, which is not possible with traditional voice call services.
- (85) Second, voice call services are typically offered on the basis of tariff plans that may include usage-based charges or bundled allowances and depend on subscriptions with

⁶² Although emails may include attachments containing pictures, videos or audio files, this does not make email a multimedia communication service comparable to consumer communication applications. In email, such content is typically transmitted as a file appended to a principally text-based message, to be downloaded or opened by the recipient. By contrast, consumer communication applications integrate multimedia communication into the core conversational experience: users can create, send, receive and consume photos, videos, voice messages, stickers, GIFs and other media directly within an ongoing, real-time or near-real-time conversation, alongside functionalities such as audio and video calls. The mere possibility of attaching media files to an email therefore does not materially alter email's predominantly written and asynchronous mode of communication.

⁶³ AGCM Decision, paragraph 96.

⁶⁴ Commission decision of 3 October 2014 in case M.7217 – *Facebook / WhatsApp*, paragraph 30.

⁶⁵ AGCM Decision, paragraph 96.

⁶⁶ AGCM Decision, paragraph 96.

electronic communications operators. Consumer communication applications, by contrast, are generally offered to users free of charge and require only an internet connection, with no costs for users, either in the form of a marginal cost per message or call or a bundle subscription.

7.2.2.1.5. *Consumer communication applications and text messages (SMS, MMS, RCS)*

- (86) This section assesses whether, *prima facie*, text messages based on the Short Message Service standard (SMS) and their evolution, Multimedia Messaging Service (MMS) and Rich Communication Services (RCS), belong to the same relevant product market as consumer communication applications.
- (87) SMS is a basic mobile messaging service that allows users to send and receive short text messages between mobile devices over cellular networks. SMS differs significantly from consumer communication applications in terms of functionalities and pricing.
- (88) First, SMS offer significantly more limited functionalities compared to consumer communication applications. Most notably, SMS messages are limited in length (typically 160 characters) and support only plain text.⁶⁷
- (89) Second, while consumer communication applications are generally made available to end users free of charge, the sending of SMS is generally subject to a charge.
- (90) However, while SMS differs significantly in terms of functionalities and pricing from consumer communication applications, subsequent evolutions of the SMS standard have made the two services more similar.
- (91) MMS builds on SMS by allowing users to send richer content, including images, audio, video clips, and longer text messages. MMS still relies on the telecom operators' network, thus requiring a paid plan to be used. RCS is a more advanced messaging standard designed to modernise operator-based messaging. RCS enables features such as high-resolution image and video sharing, read receipts, typing indicators, group chats, and messaging over Wi-Fi or mobile data. RCS thus support a similar communication experience to consumer communication applications, although its availability and functionality depend on device support, operating system implementation, and operator adoption. If the receiver device or telecom operator does not support RCS, the message will automatically default to SMS or MMS, with the associated charges.⁶⁸
- (92) The Italian Competition Authority has considered that SMS, MMS and RCS are not substitutes for consumer communication applications due to differences in physical characteristics, price and consumer preferences.⁶⁹
- (93) Likewise, in *Facebook / WhatsApp*, the Commission found that while SMS, MMS and consumer communication applications are used for the same general purpose (communication), the overall experience of the user is richer in terms of functionalities in consumer communications applications. The Commission also noted there is a difference in pricing condition, with consumer communication applications being offered free of charge contrary to SMS and MMS.⁷⁰

⁶⁷ *Business messaging – Review of the A2P SMS termination market*, Ofcom, paragraphs 3.42 and 3.45, available at <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/review-of-the-a2p-sms-termination-market/main-and-supporting-documents/a2p-sms-termination-consultation.pdf?v=390118>, last accessed on 3 June 2026.

⁶⁸ *What is the difference between iMessage, RCS, and SMS/MMS*, Apple, available at <https://support.apple.com/en-us/104972>, last accessed on 16 January 2025 (ID239).

⁶⁹ AGCM Decision, paragraphs 97 and 98.

⁷⁰ Commission decision of 3 October 2014 in case M.7217 – *Facebook / WhatsApp*, paragraphs 30 and 31.

- (94) For the purpose of this decision, it is not necessary to decide whether, *prima facie*, SMS, MMS and RCS belong to the same relevant product market as consumer communication applications. Indeed, as set out in section 7.3.3 below, the inclusion or exclusion of SMS, MMS and RCS from the market has no bearing on findings on dominance. The Commission therefore leaves this question open for the purpose of this decision.
- (95) This is in line with previous Commission decisions. In *Facebook / WhatsApp*, the Commission also left open whether SMS and MMS belong to the same relevant product market as consumer communication applications.⁷¹

7.2.2.1.6. *Consumer communication applications and Apple iMessage*

- (96) The Commission reaches the conclusion that, for the purpose of this decision, it can be left open whether Apple iMessage *prima facie* belongs to the same relevant product market as consumer communication applications.
- (97) Apple iMessage is a proprietary messaging service developed by Apple that allows users of Apple devices to reach out and communicate with other users within the Apple's ecosystem.
- (98) Apple's iMessage presents features pertaining to consumer communication applications. Most notably, it supports the exchange of multiple message formats, including text, photos and videos and it is offered for free to users, who only require an internet connection to send and receive messages via iMessage.⁷²
- (99) However, contrary to consumer communication applications in general, iMessage is tightly integrated into Apple's Messages app together with SMS/MMS/RCS services and operates exclusively within Apple's ecosystem, meaning that communication is limited to users of iOS, iPadOS, macOS and watchOS devices.⁷³ This is a key difference compared to consumer communication applications in general, which are designed to operate across multiple devices and operating systems to ensure the maximum reach to their users. The Italian Competition Authority has considered Apple iMessage and consumer communication applications to belong to separate markets.⁷⁴
- (100) In light of the above, for the purpose of this decision, the Commission leaves open whether Apple's iMessage should be included in the same relevant product market as consumer communication applications. As set out in section 7.3.3 below, the inclusion or exclusion of Apple's iMessage from the market of consumer communication applications has no bearing on findings on dominance.

7.2.2.2. *The market for general purpose AI assistants*

- (101) In *Android Auto*, the Court of Justice clarified that in the context of a refusal to supply, a competition authority "*may confine itself to identifying the downstream market on which that refusal is capable of having anticompetitive effects, even if that downstream market is merely a potential market, since such identification does not necessarily require a precise definition of the product and geographic market in question.*"⁷⁵ In the present case, for the reasons explained below, the Commission considers the relevant downstream market to be the market for the provision of general purpose AI assistants.

⁷¹ Commission decision of 3 October 2014 in case M.7217 – *Facebook / WhatsApp*, paragraph 33.

⁷² *What is the difference between iMessage, RCS, and SMS/MMS*, Apple, available at <https://support.apple.com/en-us/104972>, last accessed on 16 January 2025 (ID239).

⁷³ *Ibid.*

⁷⁴ AGCM Decision, paragraph 97.

⁷⁵ Case C-233/23, *Alphabet Inc., Google LLC, Google Italy Srl v Autorità Garante della Concorrenza e del Mercato*, EU:C:2025:110, paragraphs 85 and 86.

That is the market in which Meta's AI assistant and providers affected by Meta's conduct compete.

- (102) General purpose AI assistants are software-based tools that use artificial intelligence, typically large language models, to understand user prompts (in natural language and, increasingly, in other modalities such as voice, images or documents) and to generate outputs such as answers, summaries, recommendations, drafted content, or to take specific actions on behalf of users.⁷⁶
- (103) As regards pricing, general purpose AI assistants are typically offered under a freemium business model. Most providers make a basic version of their assistant available free of charge, allowing Users to access core functionalities or a limited number of interactions. Monetisation generally occurs through paid tiers, which grant access to more advanced or higher-performance models, enhanced functionalities (such as extended context windows or multimodal capabilities), or higher usage limits in terms of queries, tokens or response speed. This pricing structure is broadly comparable across providers and reflects both the underlying computational costs of operating AI models and providers' strategies to encourage user adoption before upselling more advanced services.⁷⁷
- (104) Within this broad category, AI assistants may nevertheless take materially different forms. For example:
- (1) General purpose AI assistants (like OpenAI's ChatGPT,⁷⁸ Microsoft's Copilot⁷⁹ or Google's Gemini⁸⁰), designed to handle a wide range of tasks (*e.g.*, general Q&A, drafting, brainstorming, coding support, translation and summarisation).
 - (2) Function-specific (or fine-tuned) assistants, optimised for a narrower set of use cases, such as customer-support assistants, meeting transcription and summarisation tools (like Otter AI⁸¹), coding assistants (like Anthropic's Claude

⁷⁶ In point 1.11 of its final decision on Strategic market status investigation into Google's general search services, the Competition and Markets Authority of the UK emphasised "*the rapid emergence of AI assistants including OpenAI's ChatGPT and Google's Gemini AI assistant, which enable users to receive responses to queries based on generative-AI models.*" In the *ex officio* inquiry of the *Autorité de la concurrence*, France Num (a French government initiative supporting the digital transformation of small and medium-sized enterprises), indicated that conversational agents are "*AI-based tools designed to interact with users in natural language. They can answer frequently asked questions, guide a customer through a purchase journey, schedule appointments or assist an employee with routine tasks*". In the same inquiry, other stakeholders believe that a distinction should be made between chatbots that manage customer interactions via decision trees and do not necessarily use artificial intelligence (AI) and generative AI-powered virtual assistants like Siri (Apple) and Alexa (Amazon) and ChatGPT-type conversational agents.

⁷⁷ For example OpenAI offers its AI assistant ChatGPT at a price ranging from zero (for its basic version) to EUR 103 per month (see OpenAI, ChatGPT pricing, available at <https://chatgpt.com/pricing/>, downloaded on 16 January 2026 (ID182). Similarly, Google offers its AI assistant Gemini at a price ranging from zero (for its basic version) to EUR 274.99 per month (see Google Gemini pricing, available at <https://gemini.google/be/subscriptions/?hl=fr>, last downloaded on 16 January 2026 (ID183)), and Microsoft offers its AI assistant Copilot at a price ranging from USD 9.99 to USD 19.99 per month (see Microsoft Copilot pricing, available at <https://www.microsoft.com/en-us/microsoft-365-copilot/pricing/individuals>, last downloaded on 16 January 2026 (ID184).

⁷⁸ *ChatGPT – AI Chatbot to Discover, Learn & Create*, available at <https://chatgpt.com/overview/>, last downloaded on 23 January 2026 (ID203).

⁷⁹ *What is Copilot and how does it work?*, available at <https://www.microsoft.com/en-us/microsoft-copilot/copilot-101/what-is-copilot>, last downloaded on 23 January 2026 (ID202).

⁸⁰ *Learn about Gemini, the everyday AI assistant from Google*, available at <https://gemini.google/ie/about/?hl=en-GB>, last downloaded on 23 January 2026 (ID206).

⁸¹ *Otter Meeting Agent - AI Notetaker, Transcription, Insights*, available at <https://otter.ai/>, last downloaded on 23 January 2026 (ID205).

Code⁸²), legal or compliance drafting tools (like Lexis+ AI⁸³).

- (3) Agentic assistants that go beyond producing information and can perform actions on the user's behalf (e.g., booking a meeting, executing a workflow across applications, retrieving information from connected services, or initiating transactions), typically by combining model output with tools, APIs and permissions (for example, Salesforce's Einstein⁸⁴).
 - (4) Assistants tightly integrated with specific hardware or operating-system ecosystems (for example, Siri within the Apple ecosystem⁸⁵).
- (105) General purpose AI assistants can also be distinguished according to whether the provider of the assistant has designed the underlying foundation models⁸⁶ or instead relies on foundation models developed by third parties, which are then fine-tuned for specific use cases. Developing and training large-scale foundation models typically requires very substantial resources, including access to specialised engineering talent, large volumes of training data, and significant computational capacity, particularly in the form of advanced GPUs.⁸⁷ As a result, providers that both develop foundation models and commercialise general purpose AI assistants are typically large digital companies, such as Meta, Google Microsoft and OpenAI.⁸⁸ By contrast, many other providers operate downstream in the value chain, building general purpose AI assistants by fine-tuning or customising existing models, or by integrating them through APIs, an activity that generally requires fewer resources and lower upfront investment than training a model from scratch. Examples of this former category include [...] and [...].
- (106) Providers of general purpose AI assistants also have different distribution models. Large digital companies are typically vertically integrated (i.e. they own their distribution channels), as they benefit from established and large-scale user-facing ecosystems, such as operating systems, app stores, browsers, productivity suites, social networks or communication services, which allow them to integrate AI assistants into existing products, often as default or pre-installed functionalities. For example, Meta has integrated its own AI assistant, Meta AI, into WhatsApp, Facebook and Instagram;⁸⁹ Microsoft uses Windows to distribute Copilot;⁹⁰ and Google's Gemini is integrated with Android.⁹¹ In addition, these companies generally have the financial resources and marketing capabilities to invest substantially in brand recognition, user acquisition and the promotion of standalone AI assistant applications. By contrast, smaller providers and start-ups, which lack an existing user-facing platform and operate

⁸² *Claude Code overview*, available at <https://code.claude.com/docs/en/overview>, last downloaded on 23 January 2026 (ID204).

⁸³ *Lexis+ AI – Transform your legal work*, available at <https://www.lexisnexis.com/en-int/products/lexis-plus-ai>, last downloaded on 23 January 2026 (ID201).

⁸⁴ *Salesforce Artificial Intelligence*, available at <https://www.salesforce.com/eu/artificial-intelligence/>, last downloaded on 23 January 2026 (ID200).

⁸⁵ *Siri*, available at <https://www.apple.com/siri/>, last downloaded on 23 January 2026 (ID196).

⁸⁶ Foundation models are large deep learning neural networks trained on massive datasets, enabling them to perform a wide variety of general tasks.

⁸⁷ European Commission, *Competition Policy Brief – Competition in Generative AI and Virtual Worlds*, Issue 3 of September 2024, pages 4 to 5.

⁸⁸ AGCM Decision, paragraph 127. See also European Commission, *Competition Policy Brief – Competition in Generative AI and Virtual Worlds*, Issue 3 of September 2024, which, at pages 4 and 5 identifies significant costs in terms of access to data, compute and talent needed for training AI models.

⁸⁹ Meta's reply to question 5 of the Commission's request for information to Meta of 8 December 2025 (ID45).
⁹⁰ [...] to question 2 of the Commission's request for information to AI developers of 17 December 2025 (ID128-1).

⁹¹ *How do I use Gemini on Android?*, available at <https://www.android.com/ai/gemini/>, last downloaded on 21 January 2026 (ID176).

with more limited resources, have to apply different distribution strategies, notably by integrating their AI assistants via APIs into third-party services, applications or platforms.⁹² Such integration-based distribution allows these providers to reach Users at scale more rapidly and at lower cost, by utilizing existing distribution channels rather than building and promoting standalone consumer applications from scratch. For example, [...], described in recital (105) above, leverage the reach of WhatsApp to distribute at scale their general purpose AI assistant.

- (107) Finally, AI assistants and AI based solutions are a relatively new phenomenon that has developed and evolved rapidly in recent years.
- (108) As described above, there are some notable differences between the features/use cases of general purpose AI assistants and function-specific (or fine-tuned) assistants, agentic assistants and assistants tightly integrated with specific hardware or operating-system ecosystems.
- (109) An identification of a relevant market in which Meta's AI assistant and those affected by Meta's conduct are active is only relevant for the purposes of assessing, *prima facie*, the capability to produce exclusionary effects that the conduct may have and not for establishing dominance.
- (110) For the purposes of the present Decision and as ruled by the Court of Justice in *Android Auto*,⁹³ the Commission therefore considers it not necessary to establish a fully comprehensive or definitive market definition, but considers it sufficient to be able to identify the market in which Meta's AI assistant and providers affected by Meta's conduct are competing, namely the market for the provision of general purpose AI assistants.

7.2.3. *The relevant geographic market*

- (111) The Commission reaches the conclusion that, *prima facie*, the relevant geographic markets for the purpose of this decision are:
 - (1) The EEA-wide market for consumer communication applications; and
 - (2) The EEA-wide market for general purpose AI assistants.

7.2.3.1. *Consumer communication applications*

- (112) In its previous decisional practice, the Commission found that the geographic market for consumer communications applications would be at least EEA-wide, if not worldwide.
- (113) The Italian Competition Authority has defined the consumer communication applications market to be EEA-wide in scope, on the grounds of the EU distinct regulatory environment for digital services, which is uniform at the EU level (thus excluding a national market dimension) and at the same time it is distinct from other non-EU jurisdictions.⁹⁴
- (114) For the purpose of this decision, the Commission reaches the conclusion that, *prima facie*, the market for consumer communication applications is EEA-wide.
- (115) First, the conditions of competitions for the provision of consumer communication applications are in general homogenous among EEA countries, as evidenced by the uniform EU regulatory environment for these services, and the lack of differences in

⁹² European Commission, *Competition Policy Brief – Competition in Generative AI and Virtual Worlds*, Issue 3 of September 2024, page 3.

⁹³ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraphs 85 and 86.

⁹⁴ AGCM Decision, paragraph 104.

terms of price and features within the EEA.⁹⁵

- (116) Second, certain consumer communications applications enjoy a greater reach than others in certain world regions. For example, WhatsApp is widespread in the EEA, in South America and in certain Asian countries such as India, but not so much in the USA and it is unavailable in China. WeChat is particularly popular in China, while Apple's iMessage is widely used in the USA but not so much in Europe. As the Commission explained in its decision *Facebook / WhatsApp*, the different degree of penetration is the indication of different competitive dynamics, which could be explained by different consumer preferences, regulatory environment and marketing efforts.⁹⁶

7.2.3.2. General purpose AI assistants

- (117) For the purpose of this decision, the Commission reaches the conclusion that, *prima facie*, the market for general purpose AI assistants is EEA-wide.⁹⁷
- (118) The conditions of competitions for the provision of general purpose AI assistants are in general homogenous among EEA countries, as evidenced by the uniform EU regulatory environment for these services, and the lack of differences in terms of price and features within the EEA.⁹⁸
- (119) The EEA is characterised by a uniform and distinct regulatory framework that materially shapes the development, deployment and commercialisation of AI assistants. In particular, the General Data Protection Regulation (GDPR) and the AI Act establish a common set of obligations across the EEA concerning, inter alia, the processing of personal data, transparency requirements, risk management, model governance and compliance safeguards. These rules may influence providers' business strategies, technical design choices and product offerings specifically for the EEA, thereby differentiating competitive conditions within the EEA from those prevailing in other jurisdictions.

7.3. Dominance

7.3.1. Principles

- (120) A dominant position, as referred to in Article 102 TFEU, relates to a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by affording it the power to behave to an appreciable extent independently of its competitors, its customers and ultimately of its consumers.⁹⁹
- (121) A finding of dominance does not require that an undertaking has eliminated all opportunity for competition in the market.¹⁰⁰ Even the existence of lively competition on a particular market does not rule out the possibility that there is a dominant position on that market, since the predominant feature of such a position is the ability of the undertaking concerned to act without having to take account of such competition in its market strategy and without for that reason suffering detrimental effects from such

⁹⁵ Commission decision of 3 October 2014 in case M.7217 – *Facebook / WhatsApp*, paragraph 36.

⁹⁶ Commission decision of 3 October 2014 in case M.7217 – *Facebook / WhatsApp*, paragraphs 38, 39 and 44.

⁹⁷ This is consistent with the AGCM Decision. See paragraph 125.

⁹⁸ AGCM Decision, paragraph 122.

⁹⁹ Case 27/76 *United Brands and United Brands Continental v Commission*, EU:C:1978:22, paragraph 65; Case 85/76 *Hoffmann-La Roche v Commission*, EU:C:1979:36, paragraph 38; and Case T-201/04 *Microsoft v Commission*, EU:T:2007:289, paragraph 229.

¹⁰⁰ Case 27/76 *United Brands and United Brands Continental v Commission*, EU:C:1978:22, paragraph 113.

behaviour.¹⁰¹

- (122) The existence of a dominant position derives in general from a combination of several factors which, taken separately, are not necessarily determinative.¹⁰² One important factor is the existence of very large market shares, which are in themselves, save in exceptional circumstances, evidence of the existence of a dominant position.¹⁰³ That is the case where a company has a market share of 50% or above.¹⁰⁴
- (123) A comparison between the market shares of the undertaking concerned and of its competitors is also an important indicator of dominance. For example, an undertaking which holds a very large market share for some time, without smaller competitors being able to meet rapidly the demand from those who would like to break away from that undertaking, is by virtue of that share in a position of strength which makes it an unavoidable trading partner and which, already because of this, secures for it, at the very least during relatively long periods, that freedom of action which is the special feature of a dominant position.¹⁰⁵
- (124) While in fast-growing sectors characterised by short innovation cycles, large market shares may sometimes turn out to be ephemeral and not necessarily indicative of a dominant position,¹⁰⁶ the fact that an undertaking may enjoy high market shares in a fast-growing market cannot preclude application of the competition rules, in particular Article 102 TFEU, especially if a fast-growing market does not show signs of market instability during the period at issue and, on the contrary, a rather stable hierarchy is established.¹⁰⁷
- (125) Other important factors when assessing dominance are the existence of countervailing buyer power and the existence of barriers to entry or expansion, preventing either potential competitors from having access to the market or actual competitors from expanding their activities on the market.¹⁰⁸ Such barriers may result from a number of factors, including exceptionally large capital investments that competitors would have to match, network externalities that would entail additional cost for attracting new customers, economies of scale from which newcomers to the market cannot derive any immediate benefit and the actual costs of entry incurred in penetrating the market.¹⁰⁹ Switching costs are therefore only one possible type of barrier to entry and expansion.
- (126) The fact that a service is offered free of charge does not preclude the finding of dominance. In *Google Shopping*, the General Court rejected Google's arguments that the fact that its service was offered to users free of charge changed the assessment of

¹⁰¹ Case 85/76 *Hoffmann-La Roche v Commission*, EU:C:1979:36, paragraph 70; and Case T-340/03 *France Télécom v Commission*, EU:T:2007:22, paragraph 101

¹⁰² Case 27/76 *United Brands and United Brands Continental v Commission*, EU:C:1978:22, paragraph 66.

¹⁰³ Case 85/76 *Hoffmann-La Roche v Commission*, EU:C:1979:36, paragraph 41; and Case T-65/98 *Van den Bergh Foods v Commission*, EU:T:2003:281, paragraph 154.

¹⁰⁴ Case C-62/86 *Akzo v Commission*, EU:C:1991:286, paragraph 60; Case T-340/03 *France Télécom v Commission*, EU:T:2007:22, paragraph 100; and Case T-336/07 *Telefónica v Commission*, EU:T:2012:172, paragraph 150.

¹⁰⁵ Case 85/76 *Hoffmann-La Roche v Commission*, EU:C:1979:36, paragraph 41; Case T-139/98 *AAMS v Commission*, EU:T:2001:272, paragraph 51; Case T-65/98 *Van den Bergh Foods v Commission*, EU:T:2003:281, paragraph 154; and Case T-336/07 *Telefónica v Commission*, EU:T:2012:172, paragraph 149.

¹⁰⁶ Case T-79/12 *Cisco Systems and Messagenet v Commission*, EU:T:2013:635, paragraph 69.

¹⁰⁷ Case T-340/03 *France Telecom v Commission*, EU:T:2007:22, paragraphs 107 and 108.

¹⁰⁸ Case 27/76 *United Brands and United Brands Continental v Commission*, EU:C:1978:22, paragraph 122; and Case 85/76 *Hoffmann-La Roche v Commission*, EU:C:1979:36, paragraph 48.

¹⁰⁹ Case 27/76 *United Brands and United Brands Continental v Commission*, EU:C:1978:22, paragraphs 91 and 122.

dominance.¹¹⁰

7.3.2. *Application to this case*

- (127) For the purpose of this decision, the Commission reaches the conclusion that, *prima facie*, Meta has held a dominant position in the EEA-wide market for consumer communication applications since at least January 2023. Furthermore, this is the case even when considering WhatsApp as a standalone consumer communication application, without Facebook Messenger (Meta's other consumer communication application).
- (128) This conclusion is based on the following considerations:
- (1) The high market shares of Meta in that market (section 7.3.3);
 - (2) The existence of barriers to entry and expansion (section 7.3.4);
 - (3) The lack of countervailing buyer power (section 7.3.5).

7.3.3. *Market shares*

- (129) Meta has enjoyed strong and stable market shares in the EEA-wide market for consumer communication applications since at least January 2023, and there has not been any notable new entry in EEA Member States during that period. This provides a strong indication of Meta's competitive strength in the EEA on the market for consumer communication applications.
- (130) All market shares in the tables below are computed in terms of usage volume (*i.e.*, volume of monthly messages sent). This metric is the most representative of market power for the present case.
- (131) First, consumer communication applications are typically offered free of charge to users, meaning that no revenues are directly generated by the user-facing side of the platform. Therefore, it is not possible to rely on market shares by value.
- (132) Second, usage volume plays an important role in new users' decisions to download and start using a consumer communication application. More specifically, the volume of messages sent reflect the intensity of use of each application, that is, how frequently and actively users rely on a given application for day-to-day communication. Higher message volumes indicate stronger user engagement, greater network effects, and a more central role in users' communication habits, making this metric particularly well-suited to assess competitive significance in the market for consumer communication applications.
- (133) Third, business users, when deciding which consumer communication application to use to reach their customers or to distribute their services (for applications offering a business API) or where to advertise (for application displaying ads to users), typically consider the applications that are more intensely used; the volume of messages sent indicate not only which services has a higher user basis, but also how active on the platform such users are.
- (134) Fourth, the volume of messages sent is closely linked to direct and indirect network effects that a consumer communication application can expect to enjoy.¹¹¹

¹¹⁰ Case T-612/17 *Google and Alphabet v Commission (Google Shopping)*, EU:T:2021:763, paragraphs 54 and 314.

¹¹¹ Direct network effects arise where the value of a service to a user increases with the number of other users on the same service. Indirect network effects arise when a platform caters to two (or more) groups of users, and value of the service to one group of users depends on the participation of another group. See also paragraphs (139) and (140) below.

- (135) As indicated in Table 1, WhatsApp usage shares based on the volume of messages sent per month in the EEA-wide market for consumer communication applications have been [...] % in each month from January 2023 to November 2025. When including Messenger, which is another stand-alone consumer communication application owned by Meta, Meta's share in the market has been [...] % in each month in the period considered.
- (136) Furthermore, all other consumer communication applications have a significantly smaller presence in the market. The second largest player, Telegram, has never exceeded a share of [...] %, that is, approximately [...] % of WhatsApp and less than a [...] of Meta's total share. The third largest player, Messenger, is also controlled by Meta. The fourth largest player, Snapchat, has never exceeded a share of [...] %, that is, less than a [...] of WhatsApp, and less than a [...] of Meta's combined share. iMessage has a share of [...] %, all remaining players have a share below [...] %. In a market with strong network effects (see section 7.3.4), and as evidenced by Meta's strong and stable market shares since at least January 2023, such a difference of scale means that these competitors are unlikely to exert any substantial competitive pressure on Meta.
- (137) There is no reason to believe that those market shares, which have been largely stable from January 2023 to November 2025, have changed materially between November 2025 and the date of this decision, and indeed Meta has pointed to no element to that effect.

**Table 1: Monthly market shares for consumer communications applications in the EEA
(January 2023 – November 2025; based on volume of messages sent)^{112 113 114}**

	<i>Meta total</i>	<i>WhatsApp</i>	<i>Messenger</i>	<i>Telegram</i>	<i>Snapchat</i>	<i>iMessage (Apple)</i>	<i>Viber</i>	<i>Discord</i>	<i>Signal</i>	<i>Line</i>	<i>Kik</i>	<i>SMS</i>
Jan 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Feb 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Mar 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Apr 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
May 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Jun 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Jul 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Aug 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Sep 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Oct 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Nov 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Dec 2023	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Jan 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Feb 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Mar 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]

¹¹² Source: Meta, Apple, Viber and Snapchat reply to Question 1 of the Commission’s RFI to messaging apps of 18 December 2025, Sensor Tower data (ID233), Statista data (ID224 to ID231) and Eurostat data (ID232).

¹¹³ For WhatsApp, Messenger, Snapchat, iMessage and Viber, data on monthly number of messages sent was provided by the companies in reply to the Commission’s RFIs. For the remaining providers (excluding SMS), the Commission estimated the monthly number of messages sent based on Sensor Tower data. Specifically, the Commission downloaded data on Monthly Active Users (MAU) for all providers except iMessage and SMS (data not available). Then the Commission computed the average number of monthly messages sent per MAU for WhatsApp, Messenger, Snapchat and Viber. Finally, the Commission estimated the number of monthly messages sent for the remaining providers (excluding SMS) by multiplying their MAUs from Sensor Tower with the monthly average number of messages per MAU of the provider with the closest average number of MAUs across the period considered.

¹¹⁴ For SMS, the Commission used Statista data on the total number of SMS sent in 2023 in Germany (ID230), the Netherlands (ID231), Spain (for this country, the last available figure refers to 2021) (ID227), Poland (ID224), Portugal (ID225), Czechia (ID229), Romania (ID226) and Sweden (ID228). The Commission then used Eurostat data on the population of these countries in 2023 to compute the number of SMS per capita. Finally, the Commission multiplied the number of SMS per capita with the total EEA population to obtain an estimate of the total volume of SMS sent in 2023. This figure was divided by 12 to obtain an estimate of the monthly volume of SMS sent. The Commission assumed a constant volume of SMS in each month in the period considered. Given the decreasing trend in yearly SMS sent from the Statista data, this can be considered a conservative assumption.

Apr 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
May 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Jun 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Jul 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Aug 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Sep 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Oct 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Nov 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Dec 2024	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Jan 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Feb 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Mar 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Apr 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
May 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Jun 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Jul 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Aug 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Sep 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Oct 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Nov 2025	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]

7.3.4. Barriers to entry

- (138) The EEA-wide market for consumer communication applications is characterised by the existence of barriers to entry and expansion in the form of strong network effects. These barriers to entry and expansion reinforce market concentration and make it difficult for new or smaller consumer communication applications to compete effectively.
- (139) First, direct network effects arise where the value of a service to a user increases with the number of other users on the same service. This mechanism is inherent to consumer communication applications, whose primary function is to enable users to communicate with each other. The larger the user base of a given application, the greater the likelihood that a user's contacts are already present on the platform, and the higher the utility derived from joining and using that service. Conversely, applications with a limited user base are less attractive, as users may be unable to reach a significant share of their social or professional network. As a result, users may face significant switching costs, insofar as switching to an alternative application would require them to persuade

a substantial share of their contacts to switch as well, or to accept reduced reach if those contacts remain on the incumbent service. These switching costs arise directly from network effects and reinforce user lock-in. These direct network effects and the associated switching costs constitute a significant barrier to entry for new or smaller providers: without a sufficiently large user base they struggle to attract users, yet without users they cannot build the scale necessary to compete effectively with established incumbents.

- (140) Second, consumer communication applications are also subject to indirect network effects, whereby the value of the service to one group of users depends on the participation of another group. In particular, a larger user base can attract a greater number of businesses and service providers, such as customer support, content creators, automated bots or general purpose AI assistants, to offer their services via the application. The availability of such business-to-consumer interactions can, in turn, increase the attractiveness of the application for end users, who may rely on the same service for both personal communications, interactions with businesses and content discovery. These indirect network effects further reinforce the competitive position of providers with a large installed user base and raise barriers to entry, as potential entrants not only need to attract users, but also must convince businesses to integrate with a platform that lacks comparable scale and reach.
- (141) WhatsApp is particularly well placed to benefit from both direct and indirect network effects by virtue of the size of its user base, both in absolute terms and relative to competing consumer communication applications. In particular, as shown in Table 1, WhatsApp has a significant larger presence than its competitors: while WhatsApp usage shares in the EEA have been approximately [...] % in each month from January 2023 to November 2025, its largest competitor never exceeded a share of [...] % and most other players never exceeded a share of [...] %. Therefore, WhatsApp offers users a materially greater likelihood of being able to communicate with their existing contacts through the service. That larger user base, in turn, makes WhatsApp more attractive to additional users and to businesses or other providers seeking to reach consumers through communication applications, thereby reinforcing its position over time.

7.3.5. *Countervailing buyer power*

- (142) The EEA-wide market for consumer communication applications is characterised by a lack of countervailing buyer power from the end-consumers these applications.
- (143) First, each user represents only a tiny fraction of the total user-base of Meta's consumer communication applications. WhatsApp alone has 3 billion users worldwide,¹¹⁵ and more than [...] monthly active users in the EU.¹¹⁶ Also, the use of the service by consumers is based on Meta's Terms & Conditions and therefore there is no scope for individual negotiations - consumers must either accept them or leave the platform. Consequently, individual Users cannot exercise any countervailing buyer power *vis-à-vis* WhatsApp, nor Meta as a whole.
- (144) Second, as described in Section 7.3.4 above, users will not easily consider leaving a large consumer communication application such as WhatsApp as switching entails significant costs stemming from network effects. In particular, moving to a competing service would require Users to ensure that a sufficient share of their existing contacts is present and active on the alternative platform, failing which the utility of the service would be substantially reduced. Given the difficulty for individual Users in coordinating such switching decisions with their broader network of contacts, their

¹¹⁵ *About WhatsApp*, available at <https://www.whatsapp.com/about>, last accessed on 16 January 2026 (ID191).

¹¹⁶ AGCM Decision, table 1 (page 36).

ability to discipline the conduct of a large incumbent platform such as WhatsApp through switching is limited.

- (145) Based on the above, the Commission reaches the conclusion that, *prima facie*, Meta holds a dominant position in the EEA-wide market for consumer communication applications, and has done so since at least January 2023. This is the case even when considering WhatsApp as a standalone consumer communication application, without Facebook Messenger.

7.4. Meta's arguments in relation to sections 7.2 and 7.3 (Market definition and dominance)

- (146) The Commission's conclusions in sections 7.2 and 7.3 are not refuted by Meta's arguments as set out below.
- (147) First, Meta argues that the messaging services of social networks such as TikTok, X and LinkedIn should be included in the relevant product market – their exclusion would result in overestimating Meta's market share.¹¹⁷
- (148) Firstly, services such as TikTok, LinkedIn and X should not be included in the relevant market for consumer communication applications merely because they include messaging functionalities. Messaging is an ancillary feature of many digital services and does not, by itself, establish demand-side substitutability between those services and consumer communication applications. TikTok is primarily a short-form video sharing service,¹¹⁸ LinkedIn is primarily a professional networking service,¹¹⁹ while X is an online micro-blogging service that facilitates the discovery and exploration of content on specific topics based on the interest of each users.¹²⁰ The respective messaging tools of those services are closely linked to those functionalities and serve ancillary, narrower, context-specific purposes, such as sharing content, interacting with creators or maintaining professional contacts. By contrast, consumer communication applications are primarily used by consumers as general-purpose tools for direct interpersonal communication with their personal network.
- (149) Secondly, in any event the inclusion of services such as TikTok, LinkedIn and X (*quod non*) is unlikely to affect the Commission's *prima facie* finding in relation to Meta's dominance. Indeed, should those services be included on the ground that they also offer ancillary messaging functionalities, then by the same logic other services owned by Meta, such as Instagram and Threads, should also be included in the market, as they also offer ancillary messaging functionalities. Notably, such services have a significantly larger users base than TikTok, LinkedIn and X. Indeed, Meta claims that X has 100 million MAUs in the EU, TikTok 200 million and LinkedIn 55 million MAUs in the EU.¹²¹ Instagram alone (excluding Threads) has over 288 million MAUs in the EU.¹²² As such, the inclusion of these services is unlikely to materially change the *prima facie* conclusion regarding Meta's dominance in the market.
- (150) Second, Meta argues that Meta's market share is overstated as:
- (1) MMS and RCS messages are not included in the market shares calculations

¹¹⁷ SO Response, paragraph 3.10 (ID483-8) and Annex 4, section 2.1.1 (ID486-6).

¹¹⁸ See Commission decision of 14 November 2024 in Case AT.40864 – *Facebook Marketplace*, section 4.3.8.3.

¹¹⁹ See Commission decision of 14 November 2024 in Case AT.40864 – *Facebook Marketplace*, section 4.3.4.

¹²⁰ See Commission decision of 14 November 2024 in Case AT.40864 – *Facebook Marketplace*, section 4.3.6.

¹²¹ SO Response, Annex 4, paragraph 24 (ID483-4).

¹²² EU Digital Services Act: Transparency Reports for Very Large Online Platforms – Instagram – July-December 2025, <https://transparency.meta.com/reports/regulatory-transparency-reports/>, (ID511).

despite being part of the relevant product market.¹²³

- (2) The share of SMS is understated as it is extrapolated based on data from eight countries, with no evidence that they are representative of SMS usage at the EEA level, and other estimates point to a higher volume of SMS being exchanged in the EEA compared to the figures used by the Commission.¹²⁴
- (151) Firstly, while MMS and RCS messages are not included in the market shares calculations due to the lack of available data, such exclusion does not affect the Commission's finding of Meta's dominance. Indeed, available evidence indicates that the volume of MMS and RCS messages exchanged in the EEA is an [...] of SMS volume, which in turn accounts for [...] % of the market.¹²⁵
- (152) Secondly, the Commission estimated the volume of SMS exchanged in the EEA using data on the volumes of SMS exchanged in eight EEA countries and extrapolating such value to cover the whole EEA, assuming that SMS usage is proportional to each country's population. Meta does not put forward any evidence suggesting that the volume of SMS exchanged in the eight countries considered by the Commission, which jointly accounts for around half of the EEA population, is not representative of SMS usage at the EEA level.¹²⁶
- (153) Thirdly, even using Meta's alternative estimate for the volume of SMS exchanged in the EEA would not affect the Commission's *prima facie* finding of Meta's dominance. Indeed, Meta's estimate would merely increase the market share of SMS by one percentage point; even after such adjustment, the SMS market share remains within [...] %.¹²⁷
- (154) Third, Meta argues that the Commission has not considered alternative metrics to the monthly number of messages to compute market shares. According to Meta, Monthly Active Users (MAU) could be a more suitable metric as: (i) the Commission argued that MAU is the right metric in its *Facebook Marketplace* decision, rejecting measure of intensity of usage; and (ii) MAU was also used in the *Facebook / WhatsApp* decision. Meta further submits that its market share would be materially lower if MAU were used in place of the monthly number of messages.¹²⁸
- (155) Firstly, the monthly number of messages exchanged provides a more accurate proxy of competitive strength than MAUs. While MAUs capture the breadth of a user base, they do not reflect the intensity of usage: a user who opens an app once in a month is treated identically to a user who relies on it as their primary communication channel on a daily or hourly basis. By contrast, message volumes directly measure user engagement and

¹²³ SO Response, paragraph 3.10 (ID483-8) and Annex 4, section 2.1.2 (ID486-6).

¹²⁴ SO Response, paragraph 3.10 (ID483-8) and Annex 4, sections 2.4 and 2.5 (ID486-6).

¹²⁵ With regards to RCS, Meta states that in Germany, RCS usage was projected to reach 178 million messages in 2025 (SO Response, Annex 4, paragraph 27 (ID483-4)). This figure would account for [...] % of SMS usage in Germany in 2023 (see ID230). Assuming that the same number of RCS sent in Germany are sent in each EEA country, then the total number of RCS messages sent would be just approximately [...] % of the total number of SMS sent, which in turn represent only [...] % of the market ([...] – see SO Response, Annex 4, paragraph 37 (ID483-4)).

With regard to MMS, evidence again suggests that, with the exception of Spain, usage is much lower than SMS, and immaterial as compared with other consumer communication apps. For example, in Czechia, according to Statista, 57 million MMS were sent, compared to 5 billion SMS (2023). In Poland, 2.3 billion MMS were sent in 2023, versus 38 billion SMS. In Romania, 3.9 million MMS were sent in 2023, versus 3.6 billion SMS (Statista, (ID458, ID513, ID229, ID224, ID459, ID226)).

¹²⁶ SO Response, Annex 5, paragraph 52 (ID483-5).

¹²⁷ SO Response, Annex 4, paragraph 44 (ID483-4). The Commission recalculated the market shares assuming the number of SMS to be 210 billion as reported by Meta instead of 138 billion.

¹²⁸ SO Response, paragraph 3.10 (ID483-8) and Annex 4, sections 2.2 (ID486-6).

the extent to which a service is actually used for communication. As such, MAUs tend to overstate the competitive significance of smaller or fringe players, which may be used sporadically, while understating the position of core platforms where the bulk of user interactions are concentrated. Accordingly, message volumes provide a more reliable basis for assessing market shares and the presence of indirect network effects in messaging markets.

- (156) The unsuitability of MAUs can be illustrated by Meta’s own calculations, which shows that, in Meta’s own words [...].¹²⁹ In other words, [...]. Yet, using MAUs to compute market shares would attribute both players approximately the same market share of [...] %, according to Meta’s own calculations.¹³⁰
- (157) Secondly, Meta’s reading of the *Facebook / WhatsApp* decision is misleading. In fact, that decision confirms that “*User engagement with a service is better demonstrated by the fact that the service is actually used every month and day or by the number of messages*”.¹³¹ The decision explicitly recognises the limitation of using MAUs: “*they [MAU] overestimate the strength of smaller market players since it suffices that a user uses an app one day over a month for a share of usage to be attributed to an app during that given month*”.¹³² The decision used MAUs due the unavailability of other metrics, in particular number of messages sent, but explicitly recognised that MAUs represent an “*imperfect*” proxy to measure the relative market positions in the market for consumer communication applications.¹³³
- (158) Thirdly, Meta’s reading of the *Facebook Marketplace* decision is misleading. Indeed, in the *Facebook Marketplace* decision, the Commission has considered MAUs a better suited metric than time spent to compute market shares for personal social networks. Time spent is a different metric than monthly number of messages used. It is not used in this decision, and Meta does not allege that it should be used. Such conclusion was motivated by the specificities of the products and markets considered in *Facebook Marketplace*, which are different from the markets considered in this decision.¹³⁴ Different markets require different metrics to assess dominance. The Commission has explained in detail why the volume of messages sent is the most suited metric for the present case.¹³⁵ Meta has not engaged at all with such reasoning, nor it has explained why the approach used by the Commission in a different case and in a different market would be better suited for the products and markets under investigation in the present case.
- (159) Fourthly, even using MAUs to compute market shares, per Meta’s own calculations, Meta would still hold a combined market share (inclusive of all its consumer communications applications) of around [...] %, and WhatsApp a share of around [...] %.¹³⁶ Consistently, the AGCM Decision also found Meta to have a combined market share of at least [...] % and WhatsApp to have a share of [...] % in terms of MAU.¹³⁷ Such evidence confirms that the Commission’s findings on dominance based on market

¹²⁹ SO Response, Annex 4, paragraph 36 (ID483-4).

¹³⁰ SO Response, Annex 4, Table 2 (ID483-4).

¹³¹ Commission decision of 3 October 2014 in Case M.7217 – *Facebook / WhatsApp*, footnote 45.

¹³² Commission decision of 3 October 2014 in Case M.7217 – *Facebook / WhatsApp*, footnote 44.

¹³³ Commission decision of 3 October 2014 in Case M.7217 – *Facebook / WhatsApp*, recitals 97 and 98.

¹³⁴ See Commission decision of 14 November 2024 in Case AT.40864 – *Facebook Marketplace*, recital 601, where the Commission explains the limitation of time spent as a metric to compute market shares for personal social networks.

¹³⁵ See recitals (131) to (134).

¹³⁶ SO Response, Annex 4, Table 2 (ID483-4).

¹³⁷ AGCM Decision, Table 1.

shares are robust, regardless of the different metrics being used.

- (160) Fourth, Meta argues that the Commission's estimates of messages volumes for five providers are based on an unsupported assumption: when RFI data were not available, the Commission estimated the monthly number of messages using MAU data and multiplying such MAU with the number of messages sent by the provider with the closest average MAU, thus assuming that the number of messages per user is similar across providers with similar MAUs. However, if a different approach is used, market shares change: when using the messages per MAU of Snapchat instead, Meta's share is lower.¹³⁸
- (161) Firstly, Snapchat has the highest ratio of messages per MAU of all players considered. Meta does not explain why this is the right ratio to consider as benchmark to estimate the average volume of messages sent for players that did not respond to the Commission's RFI. Meta does not provide any justification as to why Snapchat would be more representative as a benchmark than other apps. The Commission, on the other hand, uses a different benchmark for each player for whom the data is missing, trying to match players that are the most similar in terms of data available. Meta did not explain why that approach, which takes more account of the specificities of each app, would be less accurate than the one used by Meta.
- (162) Secondly, even using Snapchat as a benchmark for deriving the volume of messages for those providers for which only MAUs were available, as per Meta's calculations, Meta's aggregated share is around [...] %, and WhatsApp's share is around [...] %.¹³⁹ This is the most conservative scenario, i.e. the scenario resulting in Meta's having the lowest market share and third-party providers having the highest market share. Yet, even under this scenario, Meta's share is in line with the standard threshold for finding dominance. This further shows the robustness of the SO's market shares results, even under extremely conservative and unrealistic scenarios.
- (163) Fifth, Meta argues that there is a high degree of multi-homing across consumer communication applications, which limits the strength of indirect network effects and makes it easy for consumers to switch.¹⁴⁰
- (164) In assessing multi-homing in consumer communication applications, the relevant question is not whether users occasionally use multiple apps, but rather the intensity and distribution of such usage across platforms. Market share evidence based on message volumes shows that WhatsApp accounts for around [...] % of all messages sent, with only three players (including Messenger, which is also owned by Meta) exceeding a [...] % share and the vast majority of competitors remaining below [...] %.¹⁴¹ These figures indicate that, while users may have multiple apps installed and may use them sporadically, the bulk of their communication activity is highly concentrated on a small number of platforms, primarily WhatsApp. This stark asymmetry in usage intensity demonstrates that survey evidence pointing to occasional multi-homing is of limited relevance for assessing competitive constraints, as it fails to capture where meaningful user engagement, and thus competitive pressure, actually lies.

7.5. Prima facie abuse

¹³⁸ SO Response, paragraph 3.10 (ID483-8) and Annex 4, section 2.3 (ID486-6).

¹³⁹ The Commission finds Meta's aggregate share to be at least [...] % in each month between January 2023 to November 2025 (see Table 2). According to Meta, using Snapchat as benchmark for deriving the volume of messages for those providers for which only MAUs were available, would result in Meta's share to be [...] % lower, thus in the [...] % range (see Annex 4, paragraph 37 (ID483-4)).

¹⁴⁰ SO Response, paragraph 3.10 (ID483-8) and Annex 4, section 3 (ID486-6).

¹⁴¹ See Table 2.

7.5.1. Principles

- (165) Article 102 TFEU prohibits as incompatible with the internal market any abuse by one or more undertakings holding a dominant position within the internal market or in a substantial part of it, insofar as it may affect trade between Member States.
- (166) Holding a dominant position is not in itself unlawful and dominant undertakings are entitled to compete on the merits. However, an undertaking enjoying a dominant position is under a special responsibility, irrespective of the causes of that position, not to allow its conduct to impair genuine undistorted competition on the internal market.¹⁴²
- (167) The Court of Justice has defined the concept of abuse under Article 102 TFEU as an objective concept relating to the behaviour of an undertaking in a dominant position which is such as to influence the structure of a market where, as a result of the very presence of the undertaking in question, the degree of competition is weakened and which, through recourse to methods different from those which condition normal competition in products or services on the basis of the transactions of commercial operators, has the effect of hindering the maintenance of the degree of competition still existing in the market or the growth of that competition.¹⁴³
- (168) The Court has also ruled that the characterisation of a practice of a dominant undertaking as abusive does not mean that it is necessary to show that the result of a practice of such an undertaking, intended to drive its competitors from the market concerned, has been achieved and, accordingly, to prove an actual exclusionary effect on the market. The purpose of Article 102 TFEU is to penalise abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it, irrespective of whether such practice has proved successful.¹⁴⁴ In that regard, it is important to bear in mind that competition rules laid down in the Treaty aim to protect not only the interests of competitors or of consumers, but also the structure of the market and, in so doing, competition as such.¹⁴⁵
- (169) Pursuant to consistent case-law, the list of abusive practices contained in Article 102 TFEU does not exhaust the methods of abusing a dominant position prohibited by the TFEU.¹⁴⁶
- (170) In *Tetra Pak II*, the Court highlighted that the fact that a dominant company's abusive conduct has its adverse effects on a market distinct from the dominated one does not detract from the applicability of Article 102 TFEU.¹⁴⁷

¹⁴² See Case 322/81 *Michelin v Commission*, EU:C:1983:313, paragraph 57; Case T-301/04, *Clearstream a.o. v Commission*, EU:T:2009:317, paragraph 132.

¹⁴³ Case 85/76, *Hoffmann-La Roche v Commission*, EU:C:1979:36, paragraph 91.

¹⁴⁴ See Case C-233/23, *Alphabet a.o. (Android Auto)*, ECLI:EU:C:2025:110, paragraph 55; Case C-377/20, *Servizio Elettrico Nazionale*, EU:C:2022:379, paragraph 53; Case C-52/09, *TeliaSonera Sverige*, EU:C:2011:83, paragraph 65; Case T-612/17, *Google and Alphabet v Commission (Google Shopping)*, EU:T:2021:763, paragraph 442.

¹⁴⁵ See Joined Cases C-501/06 P, C-513/06 P, C-515/06 P and C-519/06 P *GlaxoSmithKline Services a.o. v Commission a.o.*, EU:C:2009:610, paragraph 63. See also Case C-8/08 *T-Mobile Netherlands a.o.*, EU:C:2009:343, paragraphs 38 to 39.

¹⁴⁶ See Case 6/72 *Europemballage and Continental Can v Commission*, EU:C:1973:22, paragraph 26; Case C-52/09 *TeliaSonera Sverige*, EU:C:2011:83, paragraph 26; Case T-336/07 *Telefónica and Telefónica de España v Commission*, EU:T:2012:172, paragraph 174 and Joined Cases C-395/96 P and C-396/96 P *Compagnie maritime belge transports a.o. v Commission*, EU:C:2000:132, paragraph 112.

¹⁴⁷ Case C-333/94 P *Tetra Pak v Commission ("Tetra Pak II")*, EU:C:1996:436, paragraph 25. In that regard, judgments of the Court in Joined cases 6/73 and 7/73 *Commercial Solvents v Commission*, EU:C:1974:18, and in Case 311/84 *CBEM*, EU:C:1985:394 provide examples of abuses having effects on markets other than the dominated markets. In judgments in case C-62/86 *AKZO v Commission*, EU:C:1991:286 and Case T-65/89 *BPB Industries and British Gypsum v Commission*, EU:T:1993:31, the EU judicature found certain

- (171) For the purposes of this case, it is important to distinguish between (i) access restrictions and (ii) refusal to supply, which is a specific scenario concerning access to an input. The general framework developed by the Court of Justice to assess access restrictions is pertinent for this case. The specific analytical framework developed for refusal to supply is not.
- (172) First, concerning refusal to supply, practices consisting in a refusal to grant access to infrastructure developed by a dominant undertaking solely for the purposes of its own business and owned by it may constitute an abuse of a dominant position provided not only that that refusal is likely to eliminate all competition in the market in question on the part of the entity requesting access and that such a refusal is incapable of being objectively justified, but also that the infrastructure, in itself, is indispensable to carrying on that undertaking's business, inasmuch as there is no actual or potential substitute in existence for that infrastructure.¹⁴⁸
- (173) In such a scenario, intervention on competition law grounds requires careful consideration where the application of Article 102 TFEU would lead to the imposition of an obligation to supply on the dominant undertaking.¹⁴⁹ Undertakings are, as a rule, free to choose their business partners.¹⁵⁰ The existence of such an obligation to give access to infrastructure developed for the needs of its own business may undermine undertakings' incentives to invest and innovate. The knowledge that they may have a duty to supply against their will may lead dominant undertakings not to invest, or to invest less, in the activity in question.
- (174) Second, conversely, the concept of access restrictions refers to various scenarios where a dominant undertaking restricts access to an input,¹⁵¹ for instance by denying access to the input under commercially viable conditions or otherwise hindering or delaying it.
- (175) Access restrictions distort effective competition where they: (1) depart from competition on the merits and (2) are capable of having exclusionary effects,¹⁵² unless they are objectively justified. In particular, the restrictions may affect a product or service which is at least potentially in competition with a product or service supplied or capable of being supplied by the undertaking in a dominant position.¹⁵³
- (176) In *Android Auto*, the Court of Justice held that where a dominant undertaking has developed infrastructure not solely for the needs of its own business but with a view to

conduct on markets other than the dominated markets and having effects on the dominated markets to be abusive.

¹⁴⁸ Case C-7/97 *Bronner*, EU:C:1998:569, paragraph 41, and Case C-48/22 P *Google and Alphabet v Commission (Google Shopping)*, EU:C:2024:726, paragraph 89 and the case-law cited. Case C-233/23 *Alphabet a.o.*, EU:C:2025:110, paragraph 39.

¹⁴⁹ Joined Cases C-241/91 P and C-242/91 P *Radio Telefis Eireann (RTE) and Independent Television Publications (ITP) v Commission (Magill)*, EU:C:1995:98, paragraph 50. See also Case C-418/01 *IMS Health*, EU:C:2004:257, paragraph 35; Case T-201/04 *Microsoft v Commission*, EU:T:2007:289, paragraphs 319, 330-332 and 336; Case C-233/23 *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraphs 40-43.

¹⁵⁰ Commission Decision of 24 March 2004 in case COMP/ 37.792 *Microsoft*, paragraph 547.

¹⁵¹ In the context of access restrictions and refusal to supply, the term 'input' refers to various types of assets, for example, goods, services, infrastructure, networks, intellectual property rights or data. In some cases, the input may not exist 'as such' in a directly accessible form in the market. Steps may be needed to create it, which may include, for example, drawing up interoperability information which was not drawn up in an accessible way before (Case T-201/04 *Microsoft v Commission*, EU:T:2007:289, paragraphs 249 and 807); or making changes to computer systems, or detailed preparations and numerous series of tests (Case T-301/04 *Clearstream v Commission*, EU:T:2009:317, paragraph 106).

¹⁵² Case C-165/19 P *Slovak Telekom v Commission*, EU:C:2021:239, paragraphs 50 and 51; and Case C- 233/23 *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraphs 44-51.

¹⁵³ *Ibid* paragraph 51.

enabling third-party undertakings to use that infrastructure, the condition relating to whether that infrastructure is indispensable for carrying on the business of the entity applying for access, in that there is no actual or potential substitute for that infrastructure, does not apply.¹⁵⁴ For finding an abuse in such circumstances, access does not need to be indispensable, but should be such as to make the app more attractive to consumers.¹⁵⁵ However, the importance of the input for the party seeking access will increase the likelihood that access restrictions will lead to exclusionary effects.¹⁵⁶

7.5.2. *Application to this case*

(177) The Commission reaches the conclusion that, *prima facie*, Meta has been abusing its dominant position under Article 102 TFEU and Article 54 of the EEA Agreement in the EEA-wide market for consumer communication applications by preventing rival standalone, general purpose AI assistants from using the WhatsApp for Business API, through the Policy Change and the Revised Policy Change¹⁵⁷ (“the Conduct”), thus giving rise at first sight to serious doubts as to its compatibility with those provisions. This is because, *prima facie*:

- (a) the Policy Change constitutes an outright refusal to provide access to an infrastructure that Meta (i) developed with a view to enabling third-party undertakings to use; (ii) encouraged third-party undertakings to use; and (iii) to which Meta granted access at least from May 2022 until the Policy Change (section 7.5.2.1); although no longer in effect at the date of adoption of this Decision, the Policy Change prompted the Commission’s investigation and remains still pertinent from the moment the Revised Policy Change will lose effect (i.e. at the latest on 6 March 2027) until the end of the interim measures period or until the adoption of a final decision in the main proceedings (i.e. it is likely that Meta would revert to an outright refusal to provide access, as provided by the Policy Change).
- (b) general purpose AI assistants affected by the Conduct compete with Meta AI (section 7.5.2.2);
- (c) the Policy Change departs from competition on the merits and is capable of producing exclusionary effects (section 7.5.2.3);
- (d) Meta’s Revised Policy Change is equivalent to a refusal to provide access to the WhatsApp for Business API (section 7.5.2.4);
- (e) Meta did not show that there are objective justification or efficiencies which outweigh the negative effect on competition (section 7.6).

7.5.2.1. Meta’s Policy Change *prima facie* constitutes an outright refusal to provide access to an infrastructure developed with a view to enabling third-party undertakings to use that infrastructure

(178) The Commission reaches the conclusion that the Policy Change, *prima facie*, constitutes an outright refusal to provide access to an infrastructure that Meta (i) developed not solely for the needs of its own business (which does not even use the infrastructure) but with a view to enabling third-party undertakings to use; (ii) encouraged third-party undertakings to use; and (iii) granted access to that infrastructure at least from May 2022 until the Policy Change.

¹⁵⁴ Case C-233/23 *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 44.

¹⁵⁵ Ibid paragraph 52.

¹⁵⁶ Case C-165/19 P *Slovak Telekom v Commission*, EU:C:2021:239, paragraph 50.

¹⁵⁷ The Revised Policy Change took effect on 6 March 2026 and will be maintained by Meta until the earlier of the Commission closing the investigation or 6 March 2027 (see SO Response, paragraph 1.28 (ID438-8)).

- (179) First, Meta did supply access to the WhatsApp for Business API to third-party undertakings, including, until the Policy Change, to general purpose AI assistants. This was also acknowledged by Meta itself, according to which Meta “built the WhatsApp for Business API as a way to allow businesses to send customer support and marketing messages to their customers via WhatsApp”.¹⁵⁸
- (180) Second, as a result of the Policy Change, Meta started refusing access to the WhatsApp for Business API to general purpose AI assistants. The Policy Change applied in steps, first to new general purpose AI assistants, as from its publication, and second to general purpose AI assistants which were already using the WhatsApp for Business API, as from 15 January 2026.¹⁵⁹
- (181) Third, the WhatsApp for Business API was developed with a view to enabling third-party undertakings to use it and not for the needs of Meta’s own business.
- (182) In the first place, openness to third parties is inherent in the very nature of the WhatsApp for Business API, which was designed to allow integration with third-party services. According to Meta, “*WhatsApp business products support businesses from large to small*” and “*[f]rom banking, e-commerce, and more, WhatsApp helps businesses drive results*”.¹⁶⁰ Indeed, more than 50 million businesses use WhatsApp Business products to reach their customers.¹⁶¹ Since May 2022, Meta opened “WhatsApp to any business of any size around the world”.¹⁶² At Meta’s inaugural “Conversations” event, CEO Mark Zuckerberg publicly announced that “in just a few minutes, any business or developer can easily access and build directly on top of WhatsApp.”¹⁶³
- (183) In the second place, the following statements¹⁶⁴ from Meta’s earnings calls confirm the openness of WhatsApp to AI use cases:
- (1) Metta Earnings Call, Q1 2023: “*I think there’s an opportunity to introduce AI agents to billions of people in ways that will be useful and meaningful. We’re exploring chat experiences in WhatsApp and Messenger, ... and over time ... I expect that a lot of interest in AI agents for business messaging and customer support will come once we nail that experience*”.¹⁶⁵
 - (2) Meta Earnings Call, Q3 2024: “*This year, we really focused on rolling out Meta AI as kind of our -- our kind of single assistant that people can ask any question to, but I think there’s a lot of opportunities that I think we’ll see ramp more over the next year in terms of both consumer and business use cases, for people interacting with a wide variety of different AI agents, consumer ones with AI*

¹⁵⁸ SO Response, paragraph 1.3 (ID483-8).

¹⁵⁹ [...]. The notice was shared with all the companies that Meta has been able to identify as being “AI Providers”: [...]. Though not identified by Meta, it also informed [...] (Meta’s reply to Question 2 of the Commission’s request for information of 8 January 2026 (ID79)).

¹⁶⁰ *WhatsApp for Business – Do more with conversations*, available at <https://business.whatsapp.com/>, last downloaded on 22 January 2026 (ID185).

¹⁶¹ *New Ways to Reach a Business on WhatsApp*, 9 July 2020, available at <https://blog.whatsapp.com/new-ways-to-reach-a-business-on-whatsapp>, last downloaded on 22 January 2026 (ID189).

¹⁶² Sarah Perez: *WhatsApp ramps up revenue with global launch of Cloud API and soon, a paid tier for its Business App*, *TechCrunch*, 19 May 2022, available at <https://techcrunch.com/2022/05/19/whatsapp-ramps-up-revenue-with-global-launch-of-cloud-api-and-soon-a-paid-tier-for-its-business-app/>, last downloaded on 20 January 2026 (ID164).

¹⁶³ Matthew Idema: *Conversations 2022: Meta’s Inaugural Business Messaging Conference*, 20 May 2022, available at <https://developers.facebook.com/blog/post/2022/05/19/conversations-2022-recap/>, last downloaded on 20 January 2026 (ID165).

¹⁶⁴ [...] submission to the Commission of 12 March 2026 (ID510-1).

¹⁶⁵ Meta Earnings Call, Q1 2023, 26 April 2023, page 3, available at META Q1 2023 Earnings Call Transcript.

*Studio around whether it's different creators or kind of different agents that people create for Entertainment.”*¹⁶⁶

- (184) In the third place, and even though the Commission takes the view that this finding is not necessary to establish that WhatsApp for Business API was developed with a view to enabling third-party undertakings to use it, until the Policy Change, the WhatsApp for Business API was also open to third-party general purpose AI assistants. Meta was well aware of the usage of the WhatsApp for Business API by third-party general purpose AI assistants, and even encouraged its usage.
- (185) At Meta Connect 2023, Meta announced the launch of the AI Studio, a platform specifically designed to bring generative AI capabilities to messaging services like WhatsApp.¹⁶⁷
- (186) As large language models and generative AI became commercially available from 2023 onwards, a growing number of companies, including dedicated AI startups, began to use the WhatsApp for Business API to distribute general purpose AI assistants and allow consumers to communicate with them through WhatsApp (as described in section 4 above).
- (187) As acknowledged by Meta,¹⁶⁸ OpenAI's ChatGPT,¹⁶⁹ Perplexity,¹⁷⁰ and Copilot¹⁷¹ have all publicised the business profiles they had created via the WhatsApp for Business API and explained to Users how they can access them on WhatsApp. The increasing presence of third-party general purpose AI assistants on WhatsApp was also widely acknowledged in the press. For example, an article published in June 2025 by the trade publication Data Studios titled *“WhatsApp Has Become the Main Arena for AI Chatbot Competition”* noted that *“the presence of multiple AI chatbots inside WhatsApp has created a highly competitive environment, which is directly benefiting users through faster feature development and more creative offerings”*, and that *“using these bots directly in WhatsApp feels more natural, like texting a smart friend, compared to opening separate apps for each one.”*¹⁷² With the opening of WhatsApp to third-party general purpose AI assistants, WhatsApp has turned into *“one of the most important battlegrounds in consumer AI and “the single most accessible and widely-used hub for everyday AI assistance, putting convenience at the center of user experience.”*¹⁷³

¹⁶⁶ Meta EarningsCall, Q3 2024, 30 October 2024, pages 9-10, available at https://s21.q4cdn.com/399680738/files/doc_financials/2024/q3/META-Q3-2024-Earnings-Call-Transcript.pdf.

¹⁶⁷ *Introducing New AI Experiences Across Our Family of Apps and Devices*, 27 September 2023, available at <https://about.fb.com/news/2023/09/introducing-ai-powered-assistants-characters-and-creative-tools/>, last downloaded on 20 January 2026 (ID166).

¹⁶⁸ Meta's submission to the Commission of 15 December 2025 (ID25).

¹⁶⁹ *1-800-ChatGPT - Calling and Messaging ChatGPT with your phone*, available at <https://help.openai.com/en/articles/10193193-1-800-chatgpt-calling-and-messaging-chatgpt-with-your-phone>, last downloaded on 22 January 2026 (ID192).

¹⁷⁰ *Perplexity Changelog*, available at <https://www.perplexity.ai/changelog/what-we-shipped-may-2nd>, last downloaded on 22 January 2026 (ID193).

¹⁷¹ *Find Copilot on WhatsApp, Telegram & More*, available at <https://www.microsoft.com/en-us/microsoft-copilot/for-individuals/do-more-with-ai/ai-for-daily-life/5-reasons-to-use-copilot-in-groupme?form=MA13Q9>, last downloaded on 22 January 2026 (ID194).

¹⁷² *WhatsApp Has Become the Main Arena for AI Chatbot Competition*, Data Studios, 25 June 2025, available at <https://www.datastudios.org/post/whatsapp-has-become-the-main-arena-for-ai-chatbot-competition>, last downloaded on 22 January 2026 (ID186).

¹⁷³ Pranav Dixit: *Meta Faces AI Competition As WhatsApp Becomes Chatbot Battleground*, Business Insider, 24 June 2025, available at <https://www.businessinsider.com/meta-ai-competition-whatsapp-chatbot-battleground-2025-6>, last downloaded on 22 January 2026 (ID187).

- (188) The openness of WhatsApp for Business API is also confirmed by the AI providers which responded to the Commission’s requests for information. For example, according to [...], “[...]”^{174 175}
- (189) Meta was thus well aware of the wide presence of third-party general purpose AI assistants on WhatsApp. Their presence did not lead to any change in the WhatsApp Business Terms of Service by Meta. On the contrary, before 15 October 2025, the WhatsApp Business Solution Terms did not provide for any limitation for third party general purpose AI assistants and the terms in force on 13 February 2025 referred explicitly to the presence of AI models on WhatsApp (see recital (38) and footnote 25 above).
- (190) [...] also indicated that prior to the Policy Change in October 2025, “[...]”¹⁷⁶ In addition, Meta changed its initial pricing policy, and the adjustment of its pricing expressly took into account general purpose AI assistants. Thus, in October 2024, WhatsApp announced a change in pricing under which, as from 1 November 2024, so-called “service conversations” (i.e. messages initiated by a user who writes with a question or problem) would become free “*for all businesses, including via AI-enabled conversational experiences*” (emphasis added)¹⁷⁷ (as described in section 5 above).
- (191) WhatsApp’s potential to support business AI services was publicly acknowledged and actively promoted by Meta’s management. For example, according to a press article of October 2025, Meta’s management regarded Meta’s messaging apps, WhatsApp and Messenger, as “*a very natural place*” for Meta to “*provide business AIS [artificial intelligence systems], because this is where hundreds of millions of conversations are already happening every day between businesses and their customers.*”¹⁷⁸
- (192) AI providers that replied to the Commission’s RFIs¹⁷⁹ [...]. For example:
- (a) According to [...], “*as [...] scaled rapidly on WhatsApp [...]. This included [...]. These actions demonstrate that Meta [...]. In parallel, Meta [...]*”¹⁸⁰
 - (b) According to [...], “*prior to [...] integration on WhatsApp, [...]. Prior to informing [...] of the new WhatsApp API policy, [...]*”¹⁸¹ *The email exchange entitled [...], which began on [...], shows that Meta [...]. For the launch of [...] on WhatsApp on [...], the calendar invite entitled [...]. The email exchange entitled [...] between [...], which began on [...], shows how [...]. Another email*

¹⁷⁴ That is, Mark Zuckerberg’s announcement that Meta was opening WhatsApp to any business of any size with the introduction of the cloud-hosted Business API (see [...] submission to the Commission of 28 November 2025, paragraph 36 (ID100-1)).

¹⁷⁵ [...] submission to the Commission of 28 November 2025, paragraph 37 (ID100-1).

¹⁷⁶ [...] explanatory note to the Commission of 21 November 2025 (ID42-1); Minutes of the call with [...] of 26 November 2025 (ID42-6).

¹⁷⁷ *Pricing on the WhatsApp Business Platform | Developer Documentation*, available at <https://developers.facebook.com/documentation/business-messaging/whatsapp/pricing>, last downloaded on 20 January 2026 (ID190).

¹⁷⁸ Nicole Silberstein: *Meta Debuts Customizable AI Agent to Help Brands Close the Sale, Retail TouchPoints*, 2 October 2025, available at <https://www.retailtouchpoints.com/topics/digital-commerce/social-commerce/meta-debuts-customizable-ai-agent-to-help-brands-close-the-sale>, last downloaded on 20 January 2026 (ID168).

¹⁷⁹ [...], [...], [...] and [...] replies to question 7 of the Commission’s request for information of 12 December 2025 (ID111-1, ID98-1, ID152-1, ID118-3). [...] and [...] replies to question 7 of the Commission’s request for information of 17 December 2025 (ID258-2 and ID128-1).

¹⁸⁰ [...] reply to Question 7 of the Commission’s request for information of 12 December 2025 (ID111-1).

¹⁸¹ [...] reply to question 7 of the Commission’s request for information of 17 December 2025 (ID258-2), and further evidence submitted in Annex 1 (ID83-1).

exchange titled [...] between [...] shows [...]. Further exchanges¹⁸² between [...] from [...] also confirm this conclusion, namely that [...]. The correspondence shows that [...]. The correspondence shows that [...].

- (c) According to [...], “*when [...]. Instead, Meta [...]*”¹⁸³, [...].”¹⁸⁴
- (d) According to [...], “[...] *has been in contact with [...]. At the time of launch and during the initial integration period, [...].*”¹⁸⁵
- (e) According to [...], “[...]” [...]also indicated that [...]”¹⁸⁶
- (193) In the fourth place, Meta appears to have largely profited from WhatsApp for Business API’s openness to all businesses, which was a strong revenue growth factor. According to Meta’s Q3/2025 earning call: “*Family of Apps other revenue was \$690 million, up 59%, driven by WhatsApp paid messaging revenue growth as well as Meta Verified subscriptions*”. “*Finally, business messaging remains a significant opportunity for us. We’re seeing strong growth across our portfolio of solutions, including with click-to-WhatsApp ads, which grew revenue 60% year- over-year in Q3*”.¹⁸⁷
- (194) In the fifth place, the fact that Meta’s own AI service, Meta AI, which is integrated in WhatsApp, does not use the WhatsApp for Business API,¹⁸⁸ reinforces the conclusion that the WhatsApp for Business API was designed with a view to enabling third-party undertakings to use it.
- (195) The Commission’s assessment above is not refuted by Meta’s arguments as set out below.
- (196) Meta submits that the SO’s and SSO’s approach is factually wrong and premised on a flawed interpretation of *Android Auto*.
- (197) First, Meta argues that the SO and SSO seek to apply *Android Auto* without regard to the limiting principles in that judgment, that a departure from the *Bronner* standard of “indispensability” is only justified where: (a) granting access to a third party would not “fundamentally alter” the economic model of the relevant infrastructure; and (b) it would not dampen investment incentives of the dominant firm and competitors.¹⁸⁹
- (198) In the first place, with regard to the refusal to provide access to infrastructure, the judgment in *Android Auto* explicitly states that where a dominant undertaking has developed infrastructure not solely for the needs of its own business but with a view to enabling third-party undertakings to use that infrastructure, the condition laid down by the Court of Justice in *Bronner* does not apply.¹⁹⁰ Any other conclusion would

¹⁸² [...] submission to the Commission of 16 March 2026, Annex 2 (ID532-5).

¹⁸³ [...] is offering WhatsApp Business APIs to its customers (as a reseller based on a custom agreement with Meta) of its [...]. In May 2025, [...] switched from direct API integration on WhatsApp to integration through [...].

¹⁸⁴ [...] reply to Question 7 of the Commission’s request for information of 17 December 2025 (ID128-1); Minutes of conference call with Microsoft of 18 December 2025 (ID75-2).

¹⁸⁵ [...] reply to Question 10 of the Commission’s request for information to AI providers of 17 December 2025 (ID170-3).

¹⁸⁶ [...] reply to Question 7 of the Commission’s request for information to AI providers of 12 December 2025 (ID118-3).

¹⁸⁷ *META Q3 2025 Earnings Call Transcript*, available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://s21.q4cdn.com/399680738/files/doc_financials/2025/q3/META-Q3-2025-Earnings-Call-Transcript.pdf, last downloaded on 22 January 2022 (ID188).

¹⁸⁸ Meta’s reply to question 1 of the Commission’s request for information to Meta of 23 December 2025 (ID143-3).

¹⁸⁹ SO Response, paragraph 3.14-3.21 (ID483-8).

¹⁹⁰ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 52.

essentially require departing from the Court’s reasoning which falls outside the scope of a *prima facie* interim measures case.

- (199) In *Android Auto*, the Court emphasised that the indispensability criterion under *Bronner* was justified by the specific circumstances of that case, which consisted in a refusal by a dominant undertaking to give a competitor access to infrastructure that it had developed solely for the needs of its own business.¹⁹¹ This is also in line with the need for undertakings in dominant position to continue to have an incentive to invest in developing high-quality products and services.¹⁹²
- (200) “*By contrast*”, as observed by the Advocate General in her Opinion and confirmed by the Court in its judgment, where a dominant undertaking has developed infrastructure not solely for the needs of its own business but with a view to enabling third-party undertakings to use that infrastructure, the *Bronner* condition relating to whether that infrastructure is indispensable does not apply.¹⁹³
- (201) As a result, in order to establish whether the conditions of *Bronner* apply to a case concerning a refusal of access to infrastructure, the relevant questions under *Android Auto* relate to whether that infrastructure (i) was developed by the undertaking in a dominant position solely for the needs of its own business and (ii) is owned by that undertaking or on the contrary (iii) was developed in order to enable third-party undertakings to use it, which is evidenced by the fact that access to such third-party undertakings has already been granted by the dominant undertaking.¹⁹⁴
- (202) In the present case, the evidence in the file shows that Meta (i) owns the WhatsApp for Business API, (ii) has developed that infrastructure not for the needs of its own business but to enable third-party undertakings to use it, and (iii) has already granted access to it for general purpose AI assistants. Meta does not contest any of those factual points, and thus, Meta’s argument cannot invalidate the conclusion that the criteria set out by the ECJ in *Android Auto* are met in the present case.
- (203) Rather than contesting the applicability of the criteria of *Android Auto*, Meta appears to be taking the view that the ruling itself should be revised, or at least qualified so that some of its criteria do not apply in specific circumstances. However, such a discussion would be a matter for the case on substance, not for a *prima facie* assessment.
- (204) In the second place, Meta claims that the *Android Auto* ruling has “limiting principles”, pursuant to which a departure from *Bronner* is only justified where granting access to a third party would not fundamentally alter the economic model of the relevant infrastructure and would not dampen investment incentives of the dominant firm and competitors. However, Meta’s interpretation of the *Android Auto* ruling is incorrect. Rather, the Court clarified that when the infrastructure was not developed for the use of the company’s own business but instead to enable third parties to use it, then it can be concluded that requiring access to that infrastructure for third-party undertakings does not fundamentally alter the economic model which applied to the development of that infrastructure of the dominant undertaking.¹⁹⁵
- (205) Meta’s claim as regards the effects of the use of the WhatsApp for Business API by general purpose AI assistants on the economic model of the API is also undermined by the fact that Meta has already made the business and investment decision to grant access

¹⁹¹ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 40.

¹⁹² Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 43.

¹⁹³ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 44.

¹⁹⁴ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 47.

¹⁹⁵ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 46.

to the WhatsApp for Business API from the outset. Meta assumed the cost of developing such infrastructure with a view to enabling third-party undertakings to use that infrastructure. It is therefore unlikely that providing access to that infrastructure to a third-party undertaking may now, at a later stage, fundamentally alter the economic model which applied to the development of that infrastructure.¹⁹⁶

- (206) In *Android Auto*, the Court clarifies that a dominant undertaking may refuse access to infrastructure only if such access would seriously compromise the integrity or security of the platform concerned, where it would be impossible for other technical reasons, or disproportionate.¹⁹⁷ If that is not the case, a dominant undertaking is required to take into consideration all the needs of the undertaking requesting access, including developing solutions that do not yet exist in its original platform if the refusal risks harming competition.¹⁹⁸
- (207) In the present case, the fact that access to the WhatsApp for Business API may require technical, commercial or economic adjustments as well as time and resources cannot be considered as fundamentally altering the original economic model and therefore as objectively justifying a refusal of access to infrastructure by Meta.¹⁹⁹
- (208) Furthermore, the burden of proving these potential constraints is on the dominant undertaking. Meta did not put forward any reliable evidence of the alleged technical impossibility to host general purpose AI assistants on WhatsApp, nor that this increase would threaten the integrity or security of WhatsApp for Business API or of the functioning of WhatsApp itself (see recitals (331) to (346) below).
- (209) In the third place, as regards Meta's argument on the potential negative effects on the investment incentives of the dominant undertaking and competitors, it should be noted that the rationale of the *Bronner* standard is to protect the dominant undertaking's property rights and incentives to invest in the interest of consumers. However, this reasoning, as explained by the Court in *Android Auto*, only applies to refusals to supply within the meaning of *Bronner*. It does not apply to access restrictions, when the infrastructure is developed with a view to enabling third-party undertakings to use it.²⁰⁰ That type of infrastructure derives its value from third parties' participation and innovation. Once the dominant undertaking has voluntarily granted to third parties access to its platform developed with a view to enabling third-party undertakings to use it, as in the present case, it cannot subsequently argue that such access would negatively affect its incentives to invest and innovate.
- (210) Finally, Meta did not explain why allowing general purpose AI assistant to use the WhatsApp for Business API might dampen their incentives to invest in their own delivery models, nor why this should be a relevant factor in assessing whether the Conduct amounts to a refusal to provide access to an infrastructure which was not reserved for Meta's own use but developed to be able to be used by third-party undertakings
- (211) Second, Meta criticises the Commission for assuming that the WhatsApp for Business API could easily support delivering general purpose AI assistants. Meta claims that the evidence shows that this use case would fundamentally alter the economic model of the WhatsApp for Business API with the inevitable consequence of poor user experience and outages, and would dampen AI assistants' incentives to invest in their own routes

¹⁹⁶ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 46.

¹⁹⁷ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 73.

¹⁹⁸ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 74.

¹⁹⁹ *Ibid.*

²⁰⁰ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraphs 43 to 45.

to market.²⁰¹

- (212) In the first place, Meta has not raised any concerns regarding the presence of general purpose AI assistants on WhatsApp. On the contrary, Meta provided technical and operational assistance during their launch on WhatsApp and actively supported general purpose AI assistants on the WhatsApp for Business API, enabling their continued operation on WhatsApp and allowing smaller general purpose AI assistants like [...] and [...] to scale (see recital (192) above) over a long period of time, before the Policy Change, starting from 2023 onwards when both large [...] and smaller general purpose AI assistants (e.g. [...]) began using the WhatsApp for Business API (see recital (37) above). This shows that it is possible to do so without “fundamentally altering” the business model of the API, or impairing user experience in any material way.
- (213) In the second place, the only [...] events that Meta could refer to in support to its claim that supporting general AI assistants on the WhatsApp for Business API would result in “outages” (a) did not constitute “outages”, and (b) were not caused by general purpose AI assistants (see recitals (341) and (342) below).
- (214) In the third place, Meta does not explain why the effects on the incentives for general purpose AI assistants to develop their own route to market should be relevant for the application of the *Android Auto* case law. To the extent that using the WhatsApp for Business API is a lawful route to market, it is not for Meta, as a dominant company, to dictate the business model of competitors, including in which route they should invest to reach their users.
- (215) In the fourth place, Meta’s own AI assistant, Meta AI, is not only supported by WhatsApp, but even deeply integrated into it, without this having the consequence of poor user experience or outages.
- (216) In any event, evidence in the Commission’s file shows that Meta had the intention to accommodate any third parties on the WhatsApp for Business API, in particular general purpose AI assistants (see recitals (186) to (190) above), as such infrastructure was originally developed and operated by Meta for this purpose, at least until the Policy Change. This is further supported by several indicators of Meta’s behaviour since the development of the WhatsApp for Business API, such as granting access, even for free, to general purpose AI assistants, acknowledging their presence on the platform, being fully aware of the nature of their business i.e. AI chatbots service, providing them with technical and operational assistance (see also recital (192) above). Meta did not contest any of the evidence above.

7.5.2.2. General purpose AI assistants affected by the WhatsApp for Business API terms compete with Meta AI

- (217) The Commission reaches the conclusion that, *prima facie*, the general purpose AI assistants affected by the Policy Change and the Revised Policy Change are products or services which are “*at least potentially in competition with a product or service supplied or capable of being supplied by the undertaking in a dominant position*”,²⁰² in this case Meta AI.
- (218) As explained in Section 7.2.2.2 above, Meta AI and the other AI assistant providers, including potential entrants, operate in the same relevant market and therefore seem to be competing with each other and exerting actual, not merely potential competitive pressure, on one another within the market. Meta does not contest this point.²⁰³

²⁰¹ SO Response, paragraph 3.22-3.26 (ID483-8).

²⁰² Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 44.

²⁰³ For instance, in the SO Response (point 3.44), Meta acknowledges that it “*faces much more successful*

- 7.5.2.3. The Policy Change *prima facie* constitutes a departure from competition on the merits and is capable of producing exclusionary effects
- (219) The Commission reaches the conclusion that the Policy Change constitutes, *prima facie*, a departure from competition on the merits and is capable of producing exclusionary effects in the market for general purpose AI assistants.
- (220) As regards departure from competition on the merits, Meta's practice constitutes a sudden change in its conduct.²⁰⁴
- (221) As detailed in Section 4 above, Meta initially enabled all third parties to use the WhatsApp for Business API (irrespective of their business activities²⁰⁵) at least from May 2022. However, soon after it entered the market for general purpose AI assistants by launching on WhatsApp its own AI assistant in the EU in March 2025 (Meta AI, launched in August 2024), it decided to cease granting access to WhatsApp for Business API to general purpose AI assistants competing with Meta AI, closing this important entry point to actual and potential competitors of Meta AI.
- (222) Against this background, the Policy Change described in Section 5 was unexpected. In October 2025, only seven months after the launch of its own AI assistant on WhatsApp in the EU, Meta introduced the Policy Change gradually, thereby entirely banning competing general purpose AI assistants from WhatsApp. Consequently, such AI providers can no longer access the WhatsApp for Business API since 15 January 2026.
- (223) Meta's abrupt shift of policy and the anticompetitive motive behind Meta's decision are reinforced by the scope of the Policy Change, which excludes from WhatsApp all general purpose AI assistants (defined at Meta's sole discretion) except its own. In this respect, Meta is reserving for itself a distribution channel with a vast user base, which is in principle open to all businesses, in order to enhance its market power without having to compete on the quality of the general purpose AI assistant services. This is such as to weaken or eliminate actual and potential competitors of Meta AI by means that depart from competition on the merits.²⁰⁶ Further to the Policy Change, Meta AI

competitors, such as OpenAI and Copilot, as well as many diverse and innovative small competitors." (ID609).

²⁰⁴ Case T-612/17 *Google and Alphabet v Commission (Google Shopping)*, EU:T:2021:763, paragraphs 181 to 185.

²⁰⁵ In the Response to the RFI dated 13 March 2026, Meta acknowledges that "[general purpose AI assistants] have always been able to use and access the WABAPI for its intended purpose" (point 5.1). Meta also explains which types of companies are prohibited on WhatsApp: "*the WhatsApp Business Messaging Policy prohibits certain organisations and places specific restrictions on use where this would negatively impact WhatsApp and its users. Prohibited business users include organisations involved in terrorism, criminal activity, facilitation of illegal conduct or the sale or promotion of illegal products or services. Access to the WABAPI is also prohibited, subject to some limited exceptions, 6 for certain regulated or restricted goods and services, including (inter alia) weapons, drugs, alcohol and tobacco. Businesses sending messages via the WABAPI must also comply with anti-discrimination laws, avoid offensive or sexually explicit content, and meet additional requirements where applicable (e.g. registration for news publishers). In addition, the sale or facilitation of exchange of any goods or services banned by Meta's Commerce Policy 7 may result in partial or full loss of access to the WABAPI. Meta's Commerce Policy is similarly intended to protect users, by restricting potentially harmful content (e.g. adult content, alcohol sales, discrimination and content promoting, inter alia, gambling, human exploitation, hazardous goods, stolen goods) and unsolicited promotional content (e.g. promotion of job opportunities).*" (point 5.2) Otherwise, there were no restrictions on the use of third-party AI assistants. (ID428).

²⁰⁶ While the circumstantial evidence (i.e. related to the coincidence in time of Meta introducing the Policy Change few months after introducing Meta AI), would certainly suggest that Meta had an anticompetitive intent, there is no requirement to establish that the dominant undertaking has such an intent. Since the concept of abuse is an objective one, it is generally not necessary to show that an undertaking had the intent to distort effective competition in order to establish an abuse of a dominant position. See Case C-377/20, *Servizio Elettrico Nazionale a.o.*, EU:C:2022:379, paragraphs 60-62, and the case law cited therein; Case C-680/20,

remained the only general purpose AI assistant available by default on WhatsApp, strategically positioning itself as the exclusive AI assistant for broad user queries. As a result of Meta’s conduct, users can no longer exercise any choice over the different AI assistant solutions based on the merits of the service, but have to use Meta’s own AI assistant on WhatsApp.

- (224) Such behaviour on the part of a dominant company consisting of discriminatory treatment that favours itself over its competitors (i.e. in this case departing from the principles normally governing WhatsApp for Business API which is open to all types of businesses) is manifestly “*outside competition on the merits*”.²⁰⁷
- (225) Moreover, the refusal of access to WhatsApp for Business API appears to be only based on the qualification of the service as general purpose AI service. The definition of “AI provider” is ultimately left open and can be extended to “*similar technologies as determined by Meta in its sole discretion*”. The scope of the prohibition is thus unclear and potentially expandable at Meta’s discretionary will.
- (226) With regard to the capability to produce exclusionary effects, Section 8.2.1.3 evidences that the Policy Change leads to the risk of serious and irreparable damage to competition by (a) the likely marginalisation of existing AI competitors, in particular smaller and non-vertically integrated competitors, at a time when they are scaling up and seeking investment in a nascent and fast-evolving market that can still be contested by new entrants, and (b) raising barriers to entry for any new entrants. This evidence supports the conclusion that the Policy Change is, *prima facie*, capable of producing exclusionary effects.²⁰⁸
- (227) First, WhatsApp – due to its scale and ease of use – makes third party general purpose AI assistants more attractive to consumers,²⁰⁹ as it is an important entry point to the market for general purpose AI assistants. Even if general purpose AI assistants can reach consumers via different channels/entry points, such as web browsers, native apps alongside messaging apps, with a user base of over 3 billion monthly active users worldwide, WhatsApp appears to be a very efficient and wide- reaching entry point both for established general purpose AI assistants and start-ups (see also Section 8.2.1.1).
- (228) Second, the elimination of WhatsApp as an entry to the market for general purpose AI assistants is likely to lead to a significant loss of users for third party rivals, in particular smaller and non-vertically integrated competitors, which is unlikely to be recovered via other channels (see Section 8.2.1.3).
- (229) Third, such elimination of an important way of access to the market for general purpose AI assistants – via WhatsApp – is likely to lead to the marginalisation or even exit of existing competitors, in particular smaller competitors, at the time when they are

Unilever Italia Mkt Operations, EU:C:2023:33, paragraph 45; Case T-612/17, *Google and Alphabet v Commission (Google Shopping)*, EU:T:2021:763, paragraphs 254-257. Proof of intent, however, may constitute a relevant factor to be taken into consideration in the assessment of the abuse. See Case C-307/18, *Generics (UK) and Others*, EU:C:2020:52, paragraph 162 and the case-law cited therein; Case C-377/20, *Servizio Elettrico Nazionale a.o.*, EU:C:2022:379, paragraph 63; Case C-680/20, *Unilever Italia Mkt. Operations*, EU:C:2023:33, paragraph 45; Case T-612/17, *Google and Alphabet v Commission (Google Shopping)*, EU:T:2021:763, paragraph 254.

Case C-48/22 P *Google and Alphabet v Commission (Google Shopping)*, EU:C:2024:726, paragraph 186.

In light of the conclusion in Section 7.5.2.4 that the Revised Policy Change is *prima facie* equivalent to a refusal to provide access to the WhatsApp for Business API, that evidence also applies to the Revised Policy Change.

See for the relevance of this element, Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 52.

scaling up and seeking investment.

- (230) Further evidence underscores the severity of these exclusionary effects. [...] emphasises that “[...]”.²¹⁰
- (231) The immediate operational consequences for competitors are already evident. [...] has stated that it is currently continuing to operate in [...], despite the uncertainty surrounding potential [...]. At this stage and given the potential [...], [...] believes that it would be [...]. It added, however, that this is [...]. Furthermore, [...] does not plan to [...] under the terms introduced by the Policy Change, nor the terms producing the same effects of the Revised Policy Change.²¹¹
- (232) Moreover, evidence suggests that smaller competitors may not survive the loss of WhatsApp access, given the platform’s outsized role in user acquisition and retention. According to [...], “[...]”.^{212 213}
- (233) Innovation and scalability are also directly harmed. [...] has indicated that it “*will need to [...]*”.²¹⁴
- (234) Even large, established competitors suffer severe setbacks. [...] has stated that “*Meta’s new WhatsApp API policy is expected to have significant impacts on [...]. Since its launch [...]. The policy change will require the deprecation of this integration, [...]. [...]. [...]. [...]*”.²¹⁵

7.5.2.4. Meta’s Revised Policy Change is *prima facie* equivalent to a refusal to provide access to the WhatsApp for Business API

- (235) The Commission reaches the conclusion that, *prima facie*, Meta’s Revised Policy Change, consisting in charging an unsustainable fee for access under the conditions outlined in Section 5 above, is equivalent to the prior refusal to provide access to the WhatsApp for Business API altogether.
- (236) Indeed, *prima facie*, the fee charged under the Revised Policy Change does not enable third party general purpose AI assistants to resume operations on WhatsApp in a sustainable manner (section 7.5.2.4.1), and it is not consistent with the benchmark developed by the Union Courts in *Android Auto* (section 7.5.2.4.2). The fee structure of the Revised Policy Change is therefore equivalent to a refusal to provide access, as third party providers of general purpose AI assistants cannot access the WhatsApp for Business API.

7.5.2.4.1. *The fee is not sustainable*

²¹⁰ [...] submission to the Commission of 16 March 2026 (ID532-8).

²¹¹ Minutes of a call with [...] of 9 March 2026, paragraph 9 (ID538-1).

²¹² [...] reply to question 6 of the Commission’s request for information to AI developers of 6 January 2026 (ID111-2).

²¹³ Meta contest that in the SO Response (point 1.19) saying that “*in the EEA, [...] receives more queries on Telegram ([...] % of all queries received by [...]) than on WhatsApp ([...] %).*” With regard to the data on monthly number of messages sent in the EEA via different channels, [...] explained that the data may be misleading with regard to Telegram and overstating its importance. Indeed, the number of messages sent on Telegram is relatively high because the infrastructure of Telegram is such that messages are sent more intensely and in shorter parts, thus inflating the number of messages compared to similar platforms. Should one look at the number of tokens generated via Telegram, the data would give a more accurate picture of the usage. [...] does not consider Telegram an important channel for [...], neither to distribute its service, nor to acquire new users for the app. (Minutes of a call with [...] of 19 March 2026, paragraph 6 (ID569-1)).

²¹⁴ [...] reply to question 6 of the Commission’s request for information to AI developers of 6 January 2026 (ID170-3).

²¹⁵ [...] reply to question 6 of the Commission’s request for Information to AI developers of 9 January 2026 (ID128-1).

- (237) The Commission reaches the conclusion that the fees charged under the Revised Policy Change do not enable third party general purpose AI assistants to resume operations on WhatsApp in a sustainable manner.
- (238) First, the level and structure of the fee imposed under the Revised Policy Change severely limits the ability of AI assistants to offer meaningful functionalities and services to users in a way that is economically sustainable, as confirmed by the following general purpose AI assistants:
- (a) According to [...]: “*The charges set out in the Fees Policy will [...]*”²¹⁶
 - (b) According to [...]: “*the new pricing conditions introduced by Meta lead to [...]*”.²¹⁷ Therefore, “*Given that [...]*”²¹⁸ The [...] has thus stated, [...]²¹⁹
 - (c) According to [...]: “[...]”²²⁰
 - (d) According to [...]: “[...]”²²¹ Therefore, “[...]”²²²
- (239) Second, at the usage levels prevailing before the Policy Change was announced (September 2025), general purpose AI assistants would face significant costs for sending messages via the WhatsApp for Business API.
- (a) [...] would have faced costs of over [...] for sending the volume of messages that was exchanged on WhatsApp in September 2025 in the EEA at zero cost, if the fees under the Revised Policy Change had applied at the time.²²³
 - (b) [...] would have faced costs of over [...] for sending the volume of messages that was exchanged on WhatsApp in September 2025 in the EEA at zero cost, if the fees under the Revised Policy Change had applied at the time.²²⁴
 - (c) [...] estimated that, following [...], it faced costs for the usage of the WhatsApp for Business API of [...]. Notably, such estimates cover a period of [...], corresponding to the [...] of the company. As explained in its submission, “[...]”²²⁵

²¹⁶ [...] submission to the Commission of 16 March 2026, paragraph 2.2 (ID532-8).

²¹⁷ [...] submission to the Commission of 12 March 2026, paragraph 76 (ID510-1).

²¹⁸ [...] submission to the Commission of 12 March 2026, paragraph 80 (ID510-1).

²¹⁹ [...] submission to the Commission of 12 March 2026, paragraph 81 (ID510-1).

²²⁰ [...] submission to the Commission of 12 March 2026, page 1 (ID514-1).

²²¹ Minutes of a call with [...] of 9 March 2026, paragraph 3 ((ID566-1).

²²² Minutes of a call with [...] of 9 March 2026, paragraph 5 ((ID566-1).

²²³ [...] on WhatsApp in September 2025 – see Meta’s reply to question 7 (Table 4) of the Commission’s request for information of 8 December 2025 (ID44). The total number of daily messages is multiplied by 30 to obtain the total number of monthly messages. As such total number of messages includes both queries sent by WhatsApp users to [...] and [...] responses to such queries, the total number of messages is divided by two to obtain a proxy for the total number of responses generated by [...] following users’ prompts. Such value is then multiplied by EUR 0.0739403, which corresponds to the weighted average fee charged by Meta across EEA countries, with weights corresponding to each country’s population in 2025 as reported by Eurostat – see Table 1.

²²⁴ [...] on WhatsApp in September 2025 – see Meta’s reply to question 7 (Table 4) of the Commission’s request for information of 8 December 2025 (ID44). The total number of daily messages is multiplied by 30 to obtain the total number of monthly messages. As such total number of messages includes both queries sent by WhatsApp users to [...] and [...] responses to such queries, the total number of messages is divided by two to obtain a proxy for the total number of responses generated by [...] following users’ prompts. Such value is then multiplied by EUR 0.0739403, which corresponds to the weighted average fee charged by Meta across EEA countries, with weights corresponding to each country’s population in 2025 as reported by Eurostat – see Table 1.

²²⁵ The [...] submission to the Commission of 12 March 2026, paragraph 77 (ID510-1).

- (d) [...] would have faced costs of over [...] for sending the volume of messages that was exchanged on WhatsApp in September 2025 in the EEA at zero cost, if the fees under the Revised Policy Change had applied at the time.²²⁶
- (e) [...] would have faced costs of over [...] for sending the volume of messages that was exchanged on WhatsApp in September 2025 in the EEA at zero cost, if the fees under the Revised Policy Change had applied at the time.²²⁷
- (240) While [...].²²⁸
- (241) Third, such costs would represent a [...]. Notably, the fees under the Revised Policy Change are significantly higher than inference costs of the Large Language Models (LLM) that underpin the AI assistants' service. Inference costs refer to the computing costs incurred when an AI system processes a user request and generates a response.²²⁹ [...] As such, they provide a useful and illustrative benchmark to assess the impact of the fees under the Revised Policy Change on general purpose AI assistants cost base.
 - (a) According to [...], [...].²³¹ With this regard, [...] stated that "[...]"²³²
 - (b) According to [...], its general purpose AI assistant's inference costs for processing a user's query and generating an AI response are [...] further estimates [...]. The [...].²³³ This compares to a [...]. Therefore, under the Revised Policy Change, [...].²³⁴ Such per message variable costs would be [...].
- (242) Fourth, the unsustainability of operating on WhatsApp under the Revised Policy Change stems not only from the high level of the fee, but also from the pricing model

²²⁶ [...] on WhatsApp in September 2025 – see Meta's reply to question 7 (Table 4) of the Commission's request for information of 8 December 2025 (ID44). The total number of daily messages is multiplied by 30 to obtain the total number of monthly messages. As such total number of messages includes both queries sent by WhatsApp users to [...] and [...] responses to such queries, the total number of messages is divided by two to obtain a proxy for the total number of responses generated by [...] following users' prompts. Such value is then multiplied by EUR 0.0739403, which corresponds to the weighted average fee charged by Meta across EEA countries, with weights corresponding to each country's population in 2025 as reported by Eurostat – see Table 1.

²²⁷ [...] on WhatsApp in September 2025 – see Meta's reply to question 7 (Table 4) of the Commission's request for information of 8 December 2025 (ID44). The total number of daily messages is multiplied by 30 to obtain the total number of monthly messages. As such total number of messages includes both queries sent by WhatsApp users to [...] and [...] responses to such queries, the total number of messages is divided by two to obtain a proxy for the total number of responses generated by [...] following users' prompts. Such value is then multiplied by EUR 0.0739403, which corresponds to the weighted average fee charged by Meta across EEA countries, with weights corresponding to each country's population in 2025 as reported by Eurostat – see Table 1.

²²⁸ [...] to Meta AI on WhatsApp in September 2025 (see Meta's reply to question 6 (Table 3) of the Commission's request for information of 8 December 2025 (ID44). Such value is then multiplied by EUR 0.0739403, which corresponds to the weighted average fee charged by Meta across EEA countries, with weights corresponding to each country's population in 2025 as reported by Eurostat – see Table 1.

²²⁹ Each interaction with a large language model requires computational resources, primarily GPU capacity, whose usage depends on the length of the input prompt and the generated output. A GPU (Graphics Processing Unit) is a specialised computer chip designed to perform many calculations in parallel, making it particularly efficient for processing large amounts of data at high speed. In the context of AI, GPUs are widely used because they can handle the intensive computations required to train and run machine learning models much faster than standard processors.

²³⁰ [...] submission to the Commission of 12 March 2026, paragraph 94 (ID510-1).

²³¹ [...] submission to the Commission of 12 March 2026, paragraph 79 (ID510-1).

²³² [...] submission to the Commission of 12 March 2026, paragraph 94 (ID510-1).

²³³ [...] submission to the Commission of 12 March 2026, page 8 (ID514-1).

²³⁴ This is calculated by dividing the WhatsApp Business API per message fee ([...]) by the variable per message costs ([...]).

itself. Notably, the Revised Policy Change represents a significant change in the pricing model, not only compared to the period immediately before the Policy Change, when access to the API for general purpose AI assistants was free, but also compared to the period before November 2024, when general purpose AI assistants were charged fees on a per-conversation basis (the “Pre-November 2024 Policy”).

- (243) In practice, under the Pre-November 2024 Policy, all messages exchanged within a 24-hour window were covered by a single flat fee. This structure allowed general purpose AI assistants to sustain rich, multi-turn interactions with users at predictable marginal cost. By contrast, the Revised Policy Change applies a fee to each individual message, thereby turning every additional user interaction into an incremental cost. This fundamentally alters the economics of providing AI services: what was previously a scalable interaction model with declining average costs becomes one where costs increase linearly with engagement. As a result, even moderate levels of user activity can quickly generate costs that exceed subscription revenues, rendering sustained usage, and thus effective service provision, economically unviable.
- (244) [...] explained that a user in [...] would generate costs for the company’s API usage of [...] under the Pre-November 2024 Policy. Under the Revised Policy Change, [...].²³⁵ In other words, serving the same user under the Revised Policy Change is now [...].²³⁶
- (245) Crucially, under the Pre-November 2024 Policy, [...] would still be subject to the [...] even if the user had sent more than [...]. The marginal cost of serving an additional query within the same 24-hour session was thus zero after the initial message. Under the Revised Policy Change, the marginal cost of serving an additional query for [...] is [...]. Therefore, the costs of serving a user sending ten messages during the same session [...].²³⁷
- (246) Fifth, the Commission has assessed the number of user interactions which a general purpose AI assistant could support, absent any other cost, and under the assumption that the user would generate a reasonable subscription fee. It should be noted that this estimate can only apply to established general purpose AI assistants, which have already achieved market recognition that allows charging a monthly revenue for most of their users. Smaller companies, and in particular new entrants, would be unlikely to have achieved such market recognition, and thus, this estimate would vastly overestimate their ability to sustain the fee. Moreover, as only a fraction of users will convert to a subscription model, the assumption that each user generates a subscription fee will likely overestimate the relevant per user revenues even for more established general purpose AI assistants. Together with the other elements developed above, the Commission nevertheless considers a comparison of the fees under the Revised Policy Change with optimistic assumptions regarding subscription revenues of general purpose AI assistants to be informative for its *prima facie* assessment of the impact of the fee on the sustainability of general purpose AI assistants.
- (247) The estimate shows that even a limited number of user interactions is sufficient to amount to the entire monthly revenue that a general purpose AI assistant can reasonably expect to generate from its users via subscription fees, implying that general purpose AI assistants’ providers would incur losses after only a small volume of exchanged messages.
- (248) This is illustrated in **Table 2**, which reports, for each general purpose AI assistant, the maximum number of user queries that can be exchanged daily via the WhatsApp for

²³⁵ Calculated as [...], i.e. the USD per message rate in[...].

²³⁶ [...] submission to the Commission of 17 March 2026, section IV (ID589-1).

²³⁷ [...] submission to the Commission of 17 March 2026, section IV (ID589-1).

Business API before the total per-message fees charged under the Revised Policy Change equals the monthly subscription revenue generated by that user. In other words, the Table identifies the break-even threshold in terms of user interactions: below this level, the provider can cover the API costs with subscription revenues, whereas above it, each additional message generates a loss. By comparing these thresholds across providers, the table illustrates how quickly the Revised Policy Change's per-message fees absorb the entirety of subscription revenues and, therefore, how low the economically viable level of user engagement is. The Table only takes account of the WhatsApp for Business API fees as regards costs incurred by general purposes AI Assistants when generating a reply to a user's query. This is conservative as inference and other variable costs are not considered. As can be seen from the table, the fees under the Revised Policy Change only allow general purpose AI assistants to respond to a very limited number of users' queries, before additional users' engagement would generate a loss.

- (249) As a result, the Revised Policy Change pricing structure not only undermines the profitability of third party general purpose AI assistants, but also prevents them from reaching the level of engagement necessary to demonstrate the quality and usefulness of their services to users. Indeed, even if WhatsApp were to be used merely as a customer acquisition channel, with the intention of subsequently migrating users to proprietary interfaces, such as apps, the limited number of interactions that can be economically sustained under the fee structure would not allow providers to adequately showcase their product capabilities. This, in turn, materially hinders user conversion and ultimately restricts the ability of AI assistants to grow and compete effectively.²³⁸

²³⁸ For example, [...] explained that “[...]” See the minutes of a call with [...] of 19 March 2026, paragraph 5 (ID569-1).

Table 2: Daily break-even number of messages across general purpose AI assistants²³⁹

Company	Monthly subscription fee	Daily break-even number of messages
[...]	[...] ²⁴⁰	[...]
[...]	[...] ²⁴¹	[...]
[...]	[...] ²⁴²	[...]
[...]	[...] ²⁴³	[...]

- (250) The Commission’s conclusion above on Revised Policy Change’s fee structure is not refuted by Meta’s arguments.
- (251) First, Meta claims that the Commission bears the burden of demonstrating that the fee is unreasonable and denies a reasonably efficient competitor any real prospect of accessing the WhatsApp for Business API. Meta takes the view that the Commission applies a newly invented standard of whether the Revised Policy Change enables sustainable access by competitors.²⁴⁴
- (252) Meta adds that pursuant to *Android Auto*, Article 102 TFEU does not preclude the dominant undertaking from requiring an appropriate financial contribution from the undertaking which requested interoperability.²⁴⁵
- (253) Firstly, this decision does not perform a sustainability analysis to assess whether the Revised Policy Change is consistent with the *Android Auto* case law. Rather, it assesses whether the Revised Policy Change is equivalent to the refusal to grant access that resulted from the Policy Change.
- (254) Secondly, in any event, this decision also shows that the Revised Policy Change does not comply with the requirements imposed in the *Android Auto* ruling, as shown in section 7.5.2.4.2 below.
- (255) Second, Meta argues that general purpose AI assistants themselves state that the WhatsApp for Business API is valuable for user acquisition purposes. Against this

²³⁹ The daily break-even number of messages is computed dividing the monthly subscription by the fee value. This yields the monthly break-even number of messages. The result is further divided by 30 to obtain the daily break-even number of messages. As Meta charges different fees by country (see ID540- 4 for a schedule of fees across all EEA countries), the value of the fee is computed as the across all EEA countries, where the weights correspond to each country’s 2025 population as reported by Eurostat (ID497). This yields a weighted average value of the fee of EUR 0,0739403.

²⁴⁰ [...] Terms and Conditions of Use, available at [...]. Last accessed on 30 March 2026 (ID463). The price refers to the monthly [...] and it is expressed in US dollars.

²⁴¹ [...] submission to the Commission of 12 March 2026, paragraph 77 (D510-1). For the purpose of the calculations in the table, the range’s midpoint [...] was used.

²⁴² [...], expressed in US dollars, [...]. Last accessed on 30 March 2026 (ID489).

²⁴³ [...], expressed in US dollars, [...]. Last accessed on 30 March 2026 (ID461).

²⁴⁴ SSO Response, paragraphs 4.3.to 4.5 (ID609).

²⁴⁵ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 76 and 81.

background, it is appropriate for Meta to charge the Marketing messages fees to general purpose AI assistants, as the user acquisition use case is most analogous to Marketing messages.²⁴⁶

- (256) As explained at recital (280), the Court of Justice in *Android Auto* has set out specific criteria governing the pricing that a dominant undertaking may be entitled to charge to third parties for the development of the software allowing them to have access to its infrastructure. It is not for Meta to set prices based on the use case of its infrastructure that it deems “*most analogous*” to its own interpretation of how such infrastructure is used by third party general purpose AI assistants. This is all the more so as Meta itself has not been consistent over time in how it classified messages exchanged by WhatsApp users with general purpose AI assistants (see recital (37)), and as explained at recital (310), general purpose AI assistants have indicated that the WhatsApp for Business API is either their main distribution channel or an important distribution channel. Therefore, the WhatsApp for Business API is not merely used for user acquisition purposes.
- (257) Third, Meta argues that any fees that general purpose AI assistants would pay under the Revised Policy Change are broadly in line with fees paid by other users of the WhatsApp for Business API. Meta notes that the top ten users of the WhatsApp for Business API in the EEA incur monthly average expenditures ranging from approximately [...], while general purpose AI assistants, under the Revised Policy Update, would be expected to incur monthly expenditures in the range of approximately [...], excluding the highest and lowest spending AI assistants (respectively, [...] and [...]).²⁴⁷
- (258) Firstly, Meta’s comparison is in any event biased by the fact that Meta excluded from the comparison the monthly fees that would be paid by [...] (approximately [...]),²⁴⁸ and [...].²⁴⁹
- (259) Such exclusion makes the comparison uninformative and misleading. Indeed, the fees that Meta AI would be subject to are a robust proxy of the costs that third party general purpose AI assistants would incur to compete with Meta’s own AI assistant. These are the costs that third party general purpose AI assistants would face if they gain users and manage to scale up their operation to a level comparable to Meta AI.
- (260) The costs of operating at the same usage level of Meta AI are [...] than the expenditure incurred by the other non-AI senders of Marketing messages via the WhatsApp for

²⁴⁶ SSO Response, paragraphs 3.9 to 3.11 (ID609).

²⁴⁷ SSO Response, paragraphs 3.13 to 3.15 (ID609)

²⁴⁸ 9.2 million messages per day were exchanged with [...] on WhatsApp in September 2025 – see Meta’s reply to question 7 (Table 4) of the Commission’s request for information of 8 December 2025 (ID44). The total number of daily messages is multiplied by 30 to obtain the total number of monthly messages. As such total number of messages includes both queries sent by WhatsApp users to [...] and [...] responses to such queries, the total number of messages is divided by two to obtain a proxy for the total number of responses generated by [...] following users’ prompts. Such value is then multiplied by EUR 0.0739403, which corresponds to the weighted average fee charged by Meta across EEA countries (see ID540-4 for a schedule of fees across all EEA countries), with weights corresponding to each country’s population in 2025 as reported by Eurostat (ID497).

²⁴⁹ Approximately [...] were submitted to Meta AI on WhatsApp in September 2025 (see Meta’s reply to question 6 (Table 3) of the Commission’s request for information of 8 December 2025 (ID44). The Commission assumes that an AI reply was generated for each query. Such value is then multiplied by EUR 0.0739403, which corresponds to the weighted average fee charged by Meta across EEA countries (see ID540-4 for a schedule of fees across all EEA countries), with weights corresponding to each country’s population in 2025 as reported by Eurostat (ID497).

Business API. Indeed, [...].²⁵⁰

- (261) Secondly, such comparison, when properly taking into account the costs of operating on the WhatsApp for Business API at the level of established players such as Meta AI, confirms that general purpose AI assistants use the WhatsApp for Business API for different use cases than other senders of Marketing messages. Indeed, to a large extent, WhatsApp is not merely a customer-acquisition channel for those providers, but a distribution channel through which users access and use the assistant itself: each exchange forms part of the provision of the service, rather than the promotion of that service; see recital (310). Moreover, even where WhatsApp contributes to user acquisition, the interaction is not comparable to a conventional Marketing message, such as a promotional offer or birthday discount code, which can achieve its purpose through a single one-way communication. A user generally needs to interact with an AI assistant over several messages in order to understand its functionality, assess its usefulness and ultimately decide whether to purchase a subscription. Therefore, charging AI assistants messages at the Marketing messages rate is inappropriate.
- (262) Fourth, Meta argues that general purpose AI assistants invest significant sums to partner with other user-facing platforms to deliver their services and acquire users at scale. Meta brings two examples of such partnerships: (i) Perplexity-Snapchat, under which Perplexity will pay USD 400 million to Snapchat over one year to embed its AI assistant within the Snapchat interface; and (ii) Grok-Telegram, whereby X will pay USD 300 million to integrate its AI assistant Grok on Telegram. According to Meta, the implied cost per monthly active users of these partnerships is higher or in line with the implied cost per monthly active users that general purpose AI assistants would incur on WhatsApp under the Revised Policy Change.²⁵¹
- (263) Firstly, the Commission notes that there is limited information available regarding the fundamental characteristics of these partnerships, such as their scope, pricing and type of integration. Most notably, the existence itself of these partnerships remains highly uncertain at this stage, with sources pointing to the partnerships being cancelled or halted.²⁵² Therefore, such partnerships cannot serve as a reliable benchmark for establishing the pricing of the WhatsApp for Business API.
- (264) Secondly, the partnerships referenced by Meta would at most confirm that the pricing model under the Revised Policy Change is not aligned with established market practices. Indeed, from the limited information available, the Commission understands that the partnerships referenced by Meta would be based on a fixed price per year, while Meta charges for usage of the WhatsApp for Business API on a per message basis. This

²⁵⁰ According to Meta, the [...] for using the WhatsApp for Business API in 2025. This is the highest average monthly fee for users of Marketing messages on the WhatsApp for Business API – see SSO Response, Table 2 (ID609).

²⁵¹ SSO Response, paragraphs 3.19 to 3.25 (ID609).

²⁵² With regards to the Snapchat / Perplexity partnership, Snapchat has reported that “*the companies [Snapchat and Perplexity] amicably ended the relationship in Q1*” and that in its sales guidance it “*assumes no contribution from Perplexity.*” See TechCrunch, *Snap says its \$400M deal with Perplexity ‘amicably ended*, available at <https://techcrunch.com/2026/05/06/snap-says-its-400m-deal-with-perplexity-amicably-ended/>. Last accessed on 26 May 2026 (ID708).

With regards to the Telegram / Grok partnership, Meta has only provided a post on X by Telegram’s founder, Pavel Durov (see SSO Response, footnote 30 (ID609) announcing the partnership; Meta has not provided any evidence that the partnership has been concluded, nor any details on its terms. In fact, xAI founder Elon Musk, has said that his company has not formally partnered with Telegram to integrate its AI assistant Grok AI across the messaging platform – see The Block, *Elon Musk contradicts Telegram’s \$300M xAI partnership announcement: ‘No deal has been signed*, available at <https://www.theblock.co/post/356171/elon-musk-contradicts-telegrams-300m-xai-partnership-announcement-no-deal-has-been-signed>. Last accessed on 26 May 2026 (ID707).

is a material difference, which creates opposite incentives for general purpose AI assistants. On the one hand, a fixed price per year encourages general purpose AI assistants to maximise the intensity of usage of their services, as the price for serving a user sending one query per month would be the same as the price for serving a user serving 100 queries per month. On the other hand, a price- per-message-sent fee penalises repeated interactions and intense usage of these services.

- (265) Thirdly, from the limited information available, the Commission understands that such partnerships involve a deep integration of the AI assistant within the hosting platform, with possible exclusivity provisions, and with likely underlying engineering work to at least in part redesign the platform's interface to accommodate the integration. This would be most akin to the integration that Meta AI enjoys on WhatsApp, with multiple and prominent access points. Therefore, even if the details on the pricing of these partnerships remain to a large extent unknown, it is to be expected that they are offered at a premium cost compared to the mere usage of a public API.
- (266) Fifth, Meta argues that the Commission's analysis is flawed as subscription revenues is not the only source of revenues available to general purpose AI assistants. For example, according to Meta, general purpose AI assistants could generate additional revenues via advertising at a later stage, once users are acquired. Moreover, such subscription revenues would not even cover general purpose AI assistants' inference costs. Meta considers that general purpose AI assistants would be limited to an extremely low number of breakeven messages even if the average fee paid across by other non-AI users of the WhatsApp for Business API was charged.²⁵³
- (267) Firstly, the fact that general purpose AI assistants may in the future monetise users through advertising does not show that they can currently sustain the fees under the Revised Policy Change. Advertising revenues are speculative, uncertain and typically depend on having already achieved scale, user engagement and advertiser demand. They cannot be assumed to offset an immediate, per-message access cost imposed at the very stage where general purpose AI assistants are trying to acquire and demonstrate value to users.
- (268) Secondly, inference costs are intrinsic to the provision of AI assistant services and were known, expected and factored into general purpose AI assistants' business models from the outset. By contrast, the Revised Policy Change represents an additional and exogenous cost of accessing a specific distribution channel, introduced after general purpose AI assistants had developed their services and commercial strategies in a different environment. In particular, the relevant change was not a gradual or predictable evolution of costs, but a sharp change in access conditions: from free access, to a ban on general purpose AI assistants, and then to access only at a price level capable of making WhatsApp distribution unsustainable.
- (269) Moreover, inference costs are incurred irrespective of whether a user accesses the AI assistant through WhatsApp, a proprietary app, a website, or another channel. Meta's API fee under the Revised Policy Change, by contrast, is a channel-specific cost that applies only when the assistant seeks to reach users through WhatsApp. The relevant question is therefore not whether general purpose AI assistants can sustain inference costs as part of their business model, but whether general purpose AI assistants can sustain Meta's additional channel-specific fee for WhatsApp (which they cannot).
- (270) Thirdly, in *Android Auto*, the Court of Justice ruled that, where a dominant undertaking is required to develop a template to ensure interoperability or to grant access, it may be entitled to appropriate remuneration. But that remuneration must be linked to the actual

²⁵³ SSO Response, paragraph 4.39, 4.40 and 4.41 (ID609).

costs of taking the necessary measures to enable access, and it must be fair and proportionate. When explaining what is appropriate, the Court refers to the needs of the third party operators requesting access, the actual cost of developing the template, and the right of the dominant undertaking to derive an appropriate benefit from that investment.²⁵⁴ The price paid by other users of the service, who do not compete in the downstream market with the own service of the vertical integrated company owning the infrastructure, and who use it for a different purpose, namely sending ad-alike Marketing messages, is not a benchmark that is consistent with that principle.

- (271) Sixth, Meta argues that properly assessing whether a fee is sustainable is a complex exercise, which requires detailed data at company-level on each AI provider's cost base, revenue mix and funding, as well as information on each AI provider's commercial strategy and on the value they derive from using the WhatsApp for Business API as opposed to other channels.²⁵⁵
- (272) This misconstrues the nature of the assessment required at the interim measures stage. A granular company-by-company assessment of each AI assistant provider's full cost base, revenue mix, funding position, commercial strategy and channel-specific monetisation prospects may be relevant, if at all, in the main proceedings. At the stage of interim measures, it is sufficient for the Commission to establish, on the basis of a consistent body of qualitative and quantitative evidence, that the pricing conditions are *prima facie* such as to make access to the WhatsApp Business API commercially unsustainable, in particular for general purpose AI assistants.
- (273) The Commission's assessment therefore properly relies on a combination of evidence, including the level and structure of Meta's fees, the abrupt change from the previous pricing/access conditions, evidence from market participants, illustrative calculations based on subscription revenues, and reasonable cost and revenue proxies. Those elements are sufficient, at the interim measures stage, to support the conclusion that, *prima facie*, the fees risk materially impairing general purpose AI assistants' ability to use WhatsApp as a distribution channel. Requiring the Commission to perform a more detailed profitability analysis at this stage would improperly import the evidentiary standard of the main proceedings into the interim measures assessment and would undermine the preventive function of interim relief.
- (274) Seventh, Meta argues that the Commission has failed to assess the quantum of costs that general purpose AI assistants have saved by relying on the WhatsApp for Business API rather than marketing, building, operating, and scaling their own independent infrastructure.²⁵⁶
- (275) Firstly, the relevant question is whether the actual API fees charged by Meta under the Revised Policy Change are commercially sustainable for general purpose AI assistants using WhatsApp as a distribution channel, given their revenue model, expected monetisation and usage intensity. The fact that WhatsApp may allow them to avoid some costs associated with other distribution routes does not show that the resulting WhatsApp fees are sustainable.
- (276) Secondly, avoided costs are not the same as revenues or cash inflows. They do not increase the subscription revenue that a general purpose AI assistant can earn from a user, nor do they make per-message API costs less burdensome once usage starts. At most, they may explain why WhatsApp access is valuable. However, they do not indicate whether Meta's specific pricing level allows general purpose AI assistants to

²⁵⁴ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 76.

²⁵⁵ SSO Response, paragraph 4.19 (ID609).

²⁵⁶ SSO Response, paragraph 4.25 (ID609).

use that access sustainably.

7.5.2.4.2. The fee is not consistent with the benchmark set out in the case law of the Union Courts

- (277) The Commission reaches the conclusion that, *prima facie*, the fee applied by Meta to general purpose AI assistants under the Revised Policy Change is not consistent with the benchmark set out by the Court of Justice in *Android Auto*.²⁵⁷
- (278) First, in *Android Auto*, the Court of Justice ruled that the lack of a software template for the category of apps concerned or the potential challenges in its development which the dominant undertaking may face cannot in itself objectively justify a refusal to grant access, where the development of the software template is subject to an “*appropriate financial contribution*” from the undertaking which requested interoperability in favour of the dominant undertaking.²⁵⁸
- (279) Firstly, the Court’s reasoning was linked to the actual costs to be incurred by the dominant undertaking for the development of a new template (which previously did not exist) for the specific category of apps concerned to obtain access to the relevant platform. The Court therefore does not establish a general principle that, where the conditions of *Android Auto* are met, the dominant company is in every case entitled to charge a financial contribution for access. In the present case, Meta did not link the fee to the potential costs of creating a new or extending infrastructure for the benefit of rival AI assistants. In a reply to a request for information of the Commission, Meta also stated that it [...]. Meta’s Revised Policy Change is in [...].²⁵⁹
- (280) Secondly, even supposing that, in this case, Meta would be entitled to charge rival AI assistants a contribution for providing access to its WhatsApp for Business API, the Court’s specifications in *Android Auto* would require that such a contribution be “*appropriate*” as well as “*fair and proportionate, having regard to the actual cost of such development*”. When explaining what is appropriate the Court refers to the needs of the third party operators requesting access, the actual cost of developing the template, and the right of the dominant undertaking to derive an appropriate benefit from that investment.²⁶⁰
- (281) While, in those conditions, the Court acknowledges that a dominant undertaking may be able to secure suitable financial contribution from third party operators to develop interoperability solutions, it also limits such remuneration by requiring a link to actual costs and by prohibiting conditions that would make access ineffective in practice.
- (282) Separately from the development costs, even if other costs linked, for example, to the integration, operation and security of the platform may also be subject to remuneration, the conditions imposed by the dominant undertaking must still be appropriate, namely linked to the actual costs, and not amount to a *de facto* refusal to provide access.
- (283) Meta did not put forward any evidence to explain how the fees under the Revised Policy Change are linked to the costs it incurs to grant third party general purpose AI assistants access to the API. Meta simply stated that the same price as the Marketing message rate will apply to messages sent by third party AI assistants, “*on the basis that this is the closest category in the current rates to the nature of the messages sent by these general purpose AI assistants*” (see section 7.5.2.4.1 above).²⁶¹

²⁵⁷ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110.

²⁵⁸ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 76.

²⁵⁹ The Revised Policy Change [...]. See SO Response, paragraph 1.28 (ID483-8).

²⁶⁰ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 76.

²⁶¹ SO Response, paragraph 1.27 (ID483-8).

- (284) Second, several objective benchmarks demonstrate that the fees under the Revised Policy Change are disproportionate, not linked to Meta's cost for the provision of access to the API and thus not consistent with the benchmark established in *Android Auto*.
- (285) Firstly, the fees under the Revised Policy Change are several orders of magnitude higher than any reasonable estimates of Meta's costs for message relay via the WhatsApp for Business API. Specifically, [...], the Commission has considered three proxies for Meta's costs related to message relay via the WhatsApp for Business API: cloud egress fees, IP transit fees and publicly available cost estimates related to the operation of the Signal messaging application. Egress fees and IP transit fees provide useful proxies for the cost of sending messages via the API, as they capture, respectively, the typical retail price of delivering data from a provider's infrastructure to end users and the underlying wholesale cost of transporting that data across the internet. Signal costs provide instead a benchmark on the main cost items associated to message relay incurred by a consumer communication application. Each of these proxies is discussed below.
- (286) The first proxy that the Commission has considered are cloud egress fees. These fees are charged by a cloud provider when data leave its systems and are sent to users or to other networks. These fees are usually based on the amount of data transferred. In this context, egress fees can serve as a proxy for the cost of transferring messages via the WhatsApp for Business API, as they reflect the typical price for cloud customers to send data from a cloud provider's infrastructure to end users over the internet. Cloud egress fees are typically priced around EUR 0.01-0.09 per gigabyte of data transferred.²⁶²
- (287) [...] estimates that, under the Revised Policy Change, transferring one gigabyte of data via the API will cost between approximately [...], depending on the size of each message and thus on the number of messages needed to reach one gigabyte of data.²⁶³ In other words, even under the most conservative scenario, transferring one gigabyte of data via the WhatsApp for Business API is close to 40 000 times more expensive than what is typically charged by cloud providers.
- (288) [...] estimates that the typical size of a message exchanged via its AI assistant is approximately [...], meaning that one gigabyte of data approximately represents [...]. Exchanging such gigabyte of data via the WhatsApp for Business API [...] (the EEA country where [...] is based) would cost over EUR [...]. According to [...], Amazon Web Service only charges approximately [...] for transferring one gigabyte of data. Therefore, Meta charges [...] than Amazon to move the same amount of data over the internet.²⁶⁴
- (289) The second proxy that the Commission has considered are IP transit fees. These are charges paid by network operators or service providers to carry data across the internet

²⁶² Competition and Markets Authority, Cloud services market investigation, Egress fees working paper, Figure 1.2 (page 9) (ID464).

²⁶³ [...] submission to the Commission of 12 March 2026, paragraph 96 (ID510-1). The calculation assumes that the size of the message sent by an AI assistant can be between 1 and 16 KB. As 1 gigabyte is equivalent to 1 048 576 KB, this means that 1 gigabyte of data can correspond to 1048576 messages (if the size of each message is 1 KB), 262 144 messages (if the size of each message is 4 KB), or 65 536 messages (if the size of each message is 16 KB). Such number of messages is then [...] which is the per message price charged by Meta [...] (ID540-4), the only EEA country where [...] operates.

²⁶⁴ [...] submission to the Commission of 12 March 2026, page 6 (ID514-1). The cost of sending 500 thousand messages is computed by multiplying the number of messages by [...], i.e. the per-message fee applied by Meta in [...]. (ID540-4)

between different networks. In simple terms, they are the cost of transporting data over the global internet infrastructure, typically calculated based on the volume of data transmitted. In this context, IP transit fees can serve as an alternative proxy for the cost of transferring messages via the WhatsApp for Business API, as they reflect the underlying wholesale cost of moving data across the internet.

- (290) [...] estimates based on data from [...]. This is to be compared to fee of [...] charged by Meta. In other words, the fee charged by Meta for delivering a message via the WhatsApp for Business API is close to [...] than the typical wholesale cost of moving data across the internet.²⁶⁵
- (291) The third proxy that the Commission has considered are publicly reported costs for operating the Signal messaging app. The Signal Foundation estimates Signal's total annual costs related to message relay at USD 6 million (EUR 5,5 million at the 2023 average exchange rate). The cost per message for Signal is approximately EUR 0.0001.²⁶⁶ This compares to an average fee per message charged by Meta under the Revised Policy Change of approximately EUR 0.07394,²⁶⁷ which is more than 700 times higher than the estimated cost per message for Signal.
- (292) Secondly, the pricing model implemented by Meta under the Revised Policy Change appears inconsistent with prevailing market practice. There are credible indications that comparable services can be offered at substantially lower, or even zero, marginal cost to developers. A salient example is Telegram, which provides access to its bot and messaging APIs free of charge.²⁶⁸ This is all the more notable given that Telegram is significantly smaller in scale than WhatsApp and does not benefit from a broader ecosystem of monetisable services (such as advertising or adjacent platforms) on which to cross-subsidise its messaging infrastructure. Rather, Telegram's monetisation strategy relies primarily on its core messaging application. The fact that a smaller standalone provider can sustain free API access suggests that Meta's per-message pricing is not driven by underlying costs.
- (293) Thirdly, the structure of Meta's API pricing further suggests that it is not anchored in the underlying costs of providing the service. In particular, the per-message fee varies significantly across countries, ranging from a minimum of EUR 0.0490 to a maximum of EUR 0.1323, which means that the highest fee is almost three times higher than the

²⁶⁵ [...] of 12 March 2026, paragraph 99 (ID510-1).

²⁶⁶ Signal, Privacy is Priceless, but Signal is Expensive, 16 November 2023, available at <https://signal.org/blog/signal-is-expensive/>. Last accessed on 30 March 2026 (ID467). The Commission considered the following annual costs for an estimation of the cost associated to message relay: Storage (USD 1.3 million), Servers (USD 2.9 million), Total Bandwidth (USD 2.8 million), Additional Services (USD 0.7 million). USD 1.7 million related to calls are removed as AI assistant do not offer call functionalities via the WhatsApp for Business API. According to publicly available information, Signal has approximately 70 million users worldwide (see Business of Apps, Signal Revenue & Usage Statistics (2026), available at <https://www.businessofapps.com/data/signal-statistics/>. Last accessed on 30 March 2026 (ID466)). Assuming an average of 60 messages per month per user yields the estimated cost per message of EUR 0.0001. If also Signal reported personnel costs are considered as part of the costs associated to message rely (USD 19 million), then the estimated cost per message for Signal is approximately EUR 0.0005, i.e. around 150 times lower than the average fee per message charged by Meta under the Revised Policy Change.

²⁶⁷ As Meta charges different fees by country (see ID540-4 for a schedule of fees across all EEA countries), the value of the fee is computed as the weighted average fee across all EEA countries, where the weights correspond to each country's 2025 population as reported by Eurostat (ID497). This yields a weighted average value of the fee of EUR 0,0739403.

²⁶⁸ [...] submission to the Commission of 12 March 2026, paragraph 95 (ID510-1). Access to Discord is also provided free of charge ([...] submission to the Commission of 12 March 2026, page 6. (ID514-1)). Access to iMessage is free of charge, but [...] explained that the integration is done via a third party and not an API ([...] submission to the Commission of 12 March 2026, paragraph 95 (ID510-1)).

lowest.²⁶⁹ It is not plausible that the cost of delivering a message via the API would differ to such an extent across EEA countries. The technical process underlying message delivery, relying on largely standardised infrastructure and the same encryption protocol across countries, suggests that marginal costs should be broadly uniform across geographies. In this context, the observed price dispersion appears more consistent with a value-based pricing approach, whereby fees are calibrated to the perceived willingness to pay for marketing messages in different countries, rather than reflecting genuine differences in underlying costs.

- (294) Fourthly, Meta's decision to apply the marketing fee category to messages sent by general purpose AI assistants further indicates that the pricing is not linked to underlying costs but instead reflects a value-based approach. Marketing messages are communications that can lead to direct monetisation, akin to advertising, and are therefore typically priced at a premium based on their commercial value rather than their cost of delivery. Moreover, messages sent by general purpose AI assistants are fundamentally different from marketing messages. While the former are reactive in nature, generated in response to a user's query or request, the latter are unsolicited commercial communications initiated by businesses to promote products or services. Treating these distinct categories as equivalent for pricing purposes reinforces the conclusion that the fee structure is driven by value considerations, not by the costs of providing the service.
- (295) The Commission's conclusion above is not refuted by Meta's arguments described below.
- (296) Before assessing Meta's arguments in turn, it should be noted that most of those arguments do not actually seek to show that the fees under the Revised Policy Change are consistent with the case law or that the Commission's assessment under the case law is flawed. Rather, Meta is asking for a change in the case law to accommodate its own case.
- (297) First, Meta argues that cloud egress fees and IP transit costs are not suitable proxies for the costs of operating the WhatsApp for Business API, as:²⁷⁰
- (1) They ignore typical costs components of operating a consumer communication application, such as costs related to infrastructure, reliability, security, safety, integrity and product development.
 - (2) The WhatsApp for Business API costs are not incurred incrementally per unit of data transmitted – therefore, marginal per gigabyte costs are not a relevant proxy for the costs of service delivery.
 - (3) Cloud egress and IP transit pricing reflect bulk or episodic data transfer – they are not designed to capture the costs of real-time, interactive messaging at scale.
- (298) Firstly, the Commission has resorted to cloud egress fees and IP transit costs as proxies in the absence of any evidence provided by Meta on the actual costs of operating the WhatsApp for Business API. While Meta claims that cloud egress fees and IP transit costs do not encompass several cost items typical of a consumer communication application, it does not provide even a rough estimate or alternative proxies of such costs.
- (299) Secondly, these proxies are sufficient, at the interim measures stage, to support the conclusion that, *prima facie*, the fees are not linked to Meta's cost for the provision of

²⁶⁹ See ID540-4 for a schedule of fees across all EEA countries.

²⁷⁰ SSO Response, paragraphs 4.53, 4.54 and 4.55 (ID609).

access to the API and thus not consistent with the benchmark established in *Android Auto*. Requiring the Commission to perform a more detailed assessment of the costs incurred by Meta for the provision of access to the API would improperly import the evidentiary standard of the main proceedings into the interim measures assessment and would undermine the preventive function of interim relief. This is all the more the case considering that Meta itself has not provided any estimates of its costs, nor any alternative cost benchmarks.

- (300) Thirdly, Meta [...]. Moreover, Meta's reference to infrastructure, reliability, security, safety, integrity and product development remains generic. Meta has not explained why those cost categories would make cloud egress fees and IP transit costs unsuitable proxies, nor why comparable providers of cloud, hosting, content delivery or digital infrastructure services would not themselves incur substantial costs in relation to infrastructure, reliability, security, resilience and product development when providing their services. The mere fact that WhatsApp is a consumer communication application does not establish that its incremental costs of transmitting messages are of a different order of magnitude from the objective benchmarks used by the Commission.
- (301) Fourthly, the Commission has also considered a third proxy for the costs of operating the WhatsApp for Business API, namely publicly reported costs for operating the Signal messaging app. Signal is a consumer communication application, which is also included in the Commission's market reconstruction in the present investigation (see Table 1) – in fact Meta has not contested such inclusion. Therefore, such proxy encompasses, by definition, the typical cost components of operating a consumer communication application, including the costs of real-time, interactive messaging. Yet, Meta's fees under the Revised Policy Change remain 700 times higher than Signal's estimated costs (see recital (291)). Meta does not address at all the evidence related to Signal's costs.
- (302) Fifthly, if, as Meta claims, [...], then the pricing model under the Revised Policy Change, which [...], is manifestly [...] and therefore confirms the Commission's conclusion that the fees under the Revised Policy Change are [...].
- (303) Second, Meta claims that even if it were to charge general purpose AI assistants the weighted average revenue per message generated by the other, non-AI users of the WhatsApp for Business API, this would still result in fees that are materially above the cost proxies identified by the Commission.²⁷¹
- (304) Meta's reliance on the weighted average revenue per message generated by other, non-AI users of the WhatsApp Business API is misplaced. That benchmark does not correspond to the criteria identified by the Court of Justice in *Android Auto* for determining the financial consideration that may be charged by a dominant undertaking for access to infrastructure developed for use by third parties. The Court referred instead to an "*appropriate financial consideration*", to be assessed, depending on the circumstances, by reference to the needs of the access seeker, the actual cost of the relevant development, and the dominant undertaking's right to derive an appropriate benefit from it.²⁷² The fact that other categories of API users may generate higher revenues for Meta is therefore not, in itself, a relevant benchmark for assessing whether the price charged to general purpose AI assistants is appropriate.
- (305) This is all the more so because other users of the WhatsApp for Business API are not in the same position as general purpose AI assistants, as the former typically do not compete with Meta in the downstream provision of AI assistant services. By contrast,

²⁷¹ SSO Response, paragraph 4.56 (ID609).

²⁷² Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 76.

the access price at issue here is imposed on undertakings whose ability to reach users through WhatsApp may affect competition in a downstream market in which Meta is active. The revenues generated by other API users, who are not in the same competitive position as general purpose AI assistants and do not compete downstream with Meta, therefore do not establish that a materially above-cost charge imposed on general purpose AI assistants is appropriate.

- (306) Third, Meta argues that the Marketing fees charged under the Revised Policy Change are a more appropriate proxy for a fair and proportionate price, given that they reflect general purpose AI assistants' claim that the WhatsApp for Business API is used for user acquisition. Moreover, Marketing fees are set with reference to a multitude of factors that include Meta's costs associated with Marketing messages, as well as benchmarking against comparative services such as advertising campaigns.²⁷³
- (307) Firstly, in *Android Auto*, the Court of Justice ruled that, where a dominant undertaking is required to ensure interoperability or grant access, it may be entitled to appropriate remuneration. But that remuneration must be linked to actual costs, and it must be fair and proportionate. When explaining the costs that can be taken into account, the Court refers to the actual cost of developing the template that was necessary to provide access, and the right of the dominant undertaking to derive an appropriate benefit from that investment.²⁷⁴ Meta's claim that messages from general purpose AI assistants are "most analogous" to Marketing messages is entirely unrelated to the costs borne by Meta for the supply of the service to general purpose AI assistants – be it for Marketing messages or for messages sent by general purpose AI assistants. If anything, Meta's reasoning, rather than based on costs, is based on the value that it can extract from customers for the delivery of its service. There is therefore no basis in law to justify Meta's reasoning.
- (308) Secondly, Meta's claim that messages sent by general purpose AI assistants are "most analogous" to Marketing messages is at odds with how Meta classified them (inconsistently) until the Revised Policy Change. Until the Policy Change of 15 October 2025, Meta classified messages exchanged by WhatsApp users with general purpose AI assistants as Service messages. Only in March 2026, when it implemented the Revised Policy Change after receiving the SO, did Meta begin to consider them as Marketing messages.²⁷⁵ Yet, no evidence exists that the nature or objective of messages sent by general purpose AI assistants changed during that timeframe.
- (309) Thirdly, the Commission's investigation has shown that user acquisition is not the sole reason driving general purpose AI assistants' use of the WhatsApp for Business API.
- (310) In the first place, the WhatsApp for Business API is the main distribution channel for several general purpose AI assistants.
 - (1) For [...] and [...], WhatsApp accounts for [...] user interactions in the EEA ([...] % and [...] % respectively).²⁷⁶
 - (2) For [...] and [...], WhatsApp accounts for [...] % and [...] % of all users interactions in the EEA.²⁷⁷

²⁷³ SSO Response, paragraph 4.57 (ID609).

²⁷⁴ Case C-233/23, *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 76.

²⁷⁵ *New pricing policy for AI Providers leveraging the WhatsApp Business Platform*, Meta, available at <https://developers.facebook.com/documentation/business-messaging/whatsapp/pricing/ai-providers/>, last accessed on 25 March 2026 (ID433)

²⁷⁶ See [...] reply to question 6 of the Commission's request for information to AI developers of 6 January 2026 (ID240-2) and [...] submission to the Commission of 12 March 2026, paragraph 28 (ID510-1).

²⁷⁷ [...] reply to question 3 and 11 of the Commission's request for information to AI developers of 12 December

- (311) In the second place, even larger players that distribute their general purpose AI assistant via multiple channels have indicated that they do not use the WhatsApp for Business API merely for user acquisition purposes.
- (1) According to [...], WhatsApp is [...]²⁷⁸
 - (2) According to [...], [...]²⁷⁹
- (312) Fourthly, the fact that general purpose AI assistants see WhatsApp as a valuable means for user acquisition purposes does not imply that such messages are analogous to Marketing messages. Marketing messages are in essence advertising, whose only purpose is to attract users to a product or service of that company. Messages sent by general purpose AI assistants, on the other hand, aim to assist the user. It is true that, over time, the experience of interacting an AI assistant on WhatsApp can lead users to engage more generally with that AI assistant even outside of WhatsApp, but this familiarisation effect is different in nature – and in value – from mere advertising.
- (313) Fifthly, as explained at recital (294), Marketing messages are communications that can lead to direct monetisation, akin to advertising, and are therefore typically priced at a premium based on their commercial value rather than their cost of delivery. This conclusion is reinforced by evidence that the per-message marketing fee varies significantly across countries, ranging from a minimum of EUR 0.0490 to a maximum of EUR 0.1323, which means that the highest fee is almost three times higher than the lowest without any tangible difference in cost of delivery between EEA Member States (see recital (295)).²⁸⁰
- (314) Sixthly, it is irrelevant that Meta allegedly [...]. Indeed, the Court of Justice in *Android Auto* has set out precise considerations governing the pricing that a dominant undertaking may be entitled to charge to third parties requesting access to its infrastructure, as explained at recital (280). Benchmarking against services that the dominant undertaking deems comparable is not among the considerations laid out by the Court. This is all the more the case as the benchmark identified by Meta, [...], does not reflect how general purpose AI assistants use the WhatsApp for Business API, namely to distribute their service (see recitals (310) and (311)).
- (315) Seventhly, Meta has previously argued that “*general purpose AI assistants have used the [WhatsApp for Business API] to deliver their chatbot services to users*”.²⁸¹ Meta itself therefore acknowledges that user acquisition is not the sole use case driving general purpose AI assistants’ use of the WhatsApp for Business API.
- (316) Fourth, Meta claims that other companies offering access to their API for free are not the correct benchmark for the pricing of the WhatsApp for Business API, as they have different business models and different monetisation strategies, which for example are centred around advertising and subscriptions.²⁸²
- (317) Meta’s point is misplaced. The Commission does not rely on the pricing practices of other API providers to argue that Meta should permanently provide access to the

2025 (ID152-1) and [...] reply to question 3 of the Commission’s request for information to AI developers of 12 December 2025 (ID118-3).

²⁷⁸ [...] reply to question 4 of the Commission’s request for information to AI developers of 17 December 2025 (ID170-3).

²⁷⁹ [...] reply to question 3 of the Commission’s request for information to AI developers of 17 December 2025 (ID258-2).

²⁸⁰ See ID540-4 for a schedule of fees across all EEA countries.

²⁸¹ SO Response, paragraph 2.11 (ID483-8).

²⁸² SSO Response, paragraphs 4.61 and 4.62 (ID609).

WhatsApp for Business API for free. Rather, those practices are relevant as an indication that the underlying cost of providing API access and delivering messages cannot be as high as Meta's Revised Policy Change suggests (if the pricing under the Revised Policy Change were indeed linked to costs, which Meta has not substantiated). Platforms would be unlikely to offer comparable API access for free if each message delivered through the API entailed a material incremental cost. The fact that those platforms may monetise their services through different business models, including advertising or subscriptions, does not deprive that evidence of probative value as a cost proxy in the framework of a *prima facie* analysis.

7.5.2.5. Meta's arguments on the capability of the Conduct to produce effects

- (318) The Commission's assessment in section 7.5.2.3 above is not refuted by Meta's arguments set out below.
- (319) Meta claims that the WhatsApp for Business API is not an important entry point for general purpose AI assistants, and thus its conduct is not capable of producing exclusionary effects.
- (320) First, Meta argues that the vast majority of successful general purpose AI assistants have never used the WhatsApp for Business API²⁸³ and that the WhatsApp for Business API is a marginal distribution channel even for those general purpose AI assistants that did use it.²⁸⁴ These arguments are addressed in recitals (381) to (385) below.
- (321) Second, Meta submits that there was very limited usage of the WhatsApp for Business API by general purpose AI assistants before it became free, and there was no return to its use after the Revised Policy Change was implemented. If the WhatsApp for Business API were a critical distribution channel, general purpose AI assistants would be willing to pay for its use, all the more as they pay for other distribution channels and they include large and well-funded companies, as well as companies who are currently operating at a loss to gain market share.²⁸⁵
- (322) Meta's reliance on the limited use of the WhatsApp for Business API before it became free, and on the alleged absence of a return to the API after the Revised Policy Change, is misplaced. Meta's reasoning confuses the absence of usage at the prices imposed by Meta with the absence of demand for access to WhatsApp. The evidence from the Commission's investigation shows that general purpose AI assistant providers are willing to pay for WhatsApp access at a reasonable and economically viable price.²⁸⁶ Their limited use of the API before free access was introduced, and their failure to return after the Revised Policy Change, therefore do not establish that WhatsApp is not an important distribution channel. They instead rather confirm that Meta's pricing makes that channel commercially unsustainable. The fact that certain providers pay for other distribution channels, or operate at a loss to gain market share, does not mean that they would accept any price for access to WhatsApp. If anything, their willingness to pay for other forms of distribution confirms that they are prepared to incur reasonable distribution costs; it does not justify Meta's imposition of a price that may foreclose effective use of WhatsApp as a distribution channel.

²⁸³ SSO Response, paragraph 5.3 (ID609).

²⁸⁴ SSO Response, paragraph 5.4 (ID609).

²⁸⁵ SSO Response, paragraph 5.5 (ID609).

²⁸⁶ According to [...] (Minutes of a call with [...] of 9 March 2026, paragraph 6 ((ID566-1)); according to [...] (Minutes of a call with [...] of 9 March 2026, (ID538-1)); according to [...] "[...] acknowledges that it would be willing to provide some financial contribution to maintain the WhatsApp integration to the extent those costs would be substantiated by Meta, and to the extent they would be manageable and proportionate. They are not willing to pay an unreasonable fee" (Minutes of a call with [...] of 9 March 2026, paragraph 6 (ID530-3)).

- (323) Third, Meta argues that the [...] by [...] general purpose AI assistant ([...]) from the WhatsApp for Business API [...] demonstrates the viability of alternative distribution channels.²⁸⁷
- (324) Firstly, the [...] had limited success: [...] data shows that the total number of [...].²⁸⁸
- (325) Secondly, [...] explained that WhatsApp is [...], with the hope that users that have become familiar with using [...] on WhatsApp, would also subsequently [...]. This is consistent with [...] strategy of [...] as well. Therefore, absent the possibility to exchange even a limited number of messages on WhatsApp, usage of [...] app would also be much lower.²⁸⁹ This evidence indicates that, despite the [...] remains reliant on WhatsApp to reach new users.

7.5.3. *Duration of the infringement*

- (326) The infringement started on 15 October 2025 when Meta changed its WhatsApp Business Solution Terms, as at that point in time, the Policy Change started to prohibit the use of the WhatsApp for Business API by general purpose AI assistants that had not been using the WhatsApp for Business API prior to that date. The introduction of the Revised Policy Change maintained a policy equivalent to the Policy Change, and so the infringement continued thereafter. The Revised Policy Change was suspended starting on 13 May 2026. However, this suspension is only for a period of one month.
- (327) As a result of the above, the Commission therefore considers that the abusive conduct is ongoing.

7.6. **Objective justification and efficiencies**

- (328) Exclusionary conduct may escape the prohibition of Article 102 TFEU if the dominant undertaking can demonstrate that its behaviour is objectively necessary or that it produces efficiencies which outweigh the negative effect on competition. The burden of proof for an objective necessity defence or for an efficiency defence is on the dominant company.²⁹⁰ It is for the company invoking the benefit of a defence against a finding of an infringement to demonstrate to the required legal standard that the conditions for applying such defence are satisfied.²⁹¹
- (329) Proving an objective necessity or efficiency defence requires convincing arguments and evidence.²⁹² Vague, general and theoretical claims or those which rely exclusively on the dominant undertaking's own commercial interests are not sufficient.²⁹³
- (330) The Court of Justice in *Android Auto* ruled that a refusal to provide interoperability can be objectively justified if granting interoperability would compromise the integrity or security of the platform, or if it is technically impossible to ensure interoperability for other reasons. However, the mere fact that the dominant company needs to develop a technical solution (e.g. a "template") to enable interoperability does not, by itself,

²⁸⁷ SSO Response, paragraph 5.6 (ID609).

²⁸⁸ Commission's analysis of [...] submission to the Commission of 1 December 2025 (ID40- 2).

²⁸⁹ Minutes of a call with [...] of 19 March 2026 (ID569-1).

²⁹⁰ See Case T-203/01 *Manufacture française des pneumatiques Michelin v Commission* (Michelin II), EU:T:2003:250, paragraphs 107 to 109.

²⁹¹ See Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty [now Article 101 and 102 TFEU], OJ L 1, 4 January 2003, recital 5 and Article 2.

²⁹² Case C-333/21, *European Superleague Company*, EU:C:2023:1011, paragraph 205; Case T-612/17, *Google and Alphabet v Commission (Google Shopping)*, EU:T:2021:763, paragraphs 577 and 591.

²⁹³ Case C-307/18, *Generics (UK) and Others*, EU:C:2020:52, paragraph 166.

justify the refusal. This does not preclude the dominant company from requesting time to develop such a solution, if needed for sound economic reasons, and from seeking fair remuneration for the development of the solution.²⁹⁴

- (331) According to Meta, the Policy Change is justified by the fact that the WhatsApp for Business API has been put under pressure by the allegedly unintended demand placed by third party general purpose AI assistants. Therefore, Meta claims that the Policy Change was driven by its need to protect the platform and related business model as well as preserve users' experience.²⁹⁵ Meta further claims that the Policy Change was indispensable to protect the integrity of the WhatsApp for Business API infrastructure – in particular to prevent technical issues and outages – as well as to maintain its economic model.²⁹⁶ Meta explains that accommodating general purpose AI assistants in the long-term would have required huge investments of time and resources to restructure the infrastructure, diverting already scarce compute capacity and engineering resources from other revenue-generating business units.²⁹⁷ Meta therefore submits that any alleged anti-competitive effects would be outweighed by the benefits of protecting the integrity and security of the WhatsApp for Business API as a technically stable API provides better user experience, protects customers from outages and ensures that the WhatsApp for Business API continues to compete vigorously with other consumer communication applications.²⁹⁸
- (332) The Commission considers that Meta has not demonstrated at this stage of the proceedings that its conduct is counterbalanced or outweighed by advantages in terms of efficiencies that also benefit the consumer.
- (333) First, and contrary to Meta's claims,²⁹⁹ general purpose AI assistants did not generate a disproportionate increase in the volume of messages.
- (334) According to Meta's estimates, third party general purpose AI assistants have accounted for approximately [...] % of all messages sent on the WhatsApp for Business API since the launch of [...] on the platform in [...].³⁰⁰
- (335) In and of itself, a share of [...] % does not seem to constitute a burden high enough to justify the complete elimination – either by a legal ban or a pricing framework to the same effect – of all rival general purpose AI assistants (but not Meta's own) from WhatsApp.
- (336) Furthermore, when compared to the total number of messages sent on WhatsApp (that is, including messages sent by businesses and users), third party general purpose AI assistants only accounted for less than [...] % of the total number of messages sent in November 2025.³⁰¹ This makes it even less plausible that the demand placed by third party general purpose AI assistants is such that banning them from WhatsApp (or introducing a pricing framework to the same effect) is necessary to protect the platform and related business model as well as preserve users' experience.
- (337) Second, other evidence in the file further shows that third party general purpose AI

²⁹⁴ Case C-233/23 *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraphs 73 to 75.

²⁹⁵ Meta's submission to the Commission of 15 December 2025 (ID25); Meta's reply to question 7 of the Commission's request for information of 19 December 2025 (ID64); Meta's reply to the Commission's request for information of 23 December 2025 (ID60).

²⁹⁶ SO Response, paragraph 3.73 (ID483-8).

²⁹⁷ SO Response, paragraph 3.75 (ID483-8).

²⁹⁸ SO Response, paragraph 3.75 (ID483-8).

²⁹⁹ SO Response, paragraphs 2.12 to 2.14 (ID483-8).

³⁰⁰ Meta's reply to question 9 of the Commission's request for information of 8 December 2025 (ID44).

³⁰¹ Meta's reply to questions 7 and 8 of the Commission's request for information of 8 December 2025 (ID44).

assistants [...].

- (338) Since [...], when the first general purpose AI assistant, [...], became available on WhatsApp, usage of general purpose AI assistants on WhatsApp [...] from approximately [...].³⁰² During the same time, usage of the API (excluding general purpose AI assistants) [...] from approximately [...].³⁰³ In addition, from January 2023 to November 2024 (*i.e.*, the period before [...] of the API, [...]), the number of messages sent via the API [...]. From December 2024 to November 2025, the number of messages sent via the API [...] (including usage by AI providers).³⁰⁴ This evidence indicates that third party general purpose AI assistants are [...] in the number of messages sent by businesses on WhatsApp and that, in the past, Meta has been [...].
- (339) Third, Meta’s arguments with regard to the alleged technical strain on infrastructure and resources are not sufficiently substantiated.
- (340) Firstly, Meta has technical limits in place to protect the integrity and security of the WhatsApp for Business API. As Meta explained, [...] ³⁰⁵and the [...] ³⁰⁶are [...] ³⁰⁷
- (341) Indeed, the [...] “outages” described by Meta as examples of the “*severe strain*”³⁰⁸ that third party general purpose AI assistants caused on the WhatsApp for Business API, if anything, show that the technical limits protected the integrity and security of the infrastructure and preserved users’ experience. Indeed, during those [...] events, [...]. While the fact that a specific [...], this does not [...] to protect the infrastructure. It is also questionable that such events can be considered [...], as those events [...] and did [...].
- (342) Secondly, the evidence submitted by Meta at this stage does not support that these events were directly caused by general purpose AI assistants.
- (1) Meta provided [...] – resulting in the [...]. While in the SO Response Meta stated that it was caused by [...],³⁰⁹ its explanation [...].³¹⁰ As Meta explained to [...] right after the event “[...]”.³¹¹
- (2) [...] – resulting the [...] – was caused by a [...] Meta indicated that “[...]”.³¹²

³⁰² Meta’s reply to question 7 of the Commission’s request for information of 8 December 2025, Table 4 to Table 11 (ID44).

³⁰³ Meta’s reply to question 8 of the Commission’s request for information of 8 December 2025, Table 4 to Table 12 (ID44).

³⁰⁴ Meta’s reply to question 8 of the Commission’s request for information of 8 December 2025, Table 12 (ID44).

³⁰⁵ [...]. (SO Response, paragraph 2.9 (ID483-8); Meta’s reply to question 1.a of the Commission’s request for information of 13 March 2026 (ID490-5).)

³⁰⁶ [...] (SO Response, paragraph 2.9 (ID483-8), Meta’s reply to question 2.b of the Commission’s request for information of 13 March 2026 (ID493-5)).

³⁰⁷ SO Response, paragraph 2.10 (ID483-8).

³⁰⁸ SO Response, paragraph 2.16 (ID483-8).

³⁰⁹ SO Response, paragraph 2.16 (ID483-8) and its Annex 2, paragraph 5.4 (ID483-2).

³¹⁰ The Commission notes that no evidence was put forward that this was done upon request from [...]. The language used in the contemporary correspondence points towards it being a decision on [...] end: [...] (Emphasis added, Meta’s reply to the Commission’s request for information of 13 March 2026, Annex 1, Correspondence 3, ID493-2).

³¹¹ Meta’s reply to the Commission’s request for information of 13 March 2026, Annex 1, Correspondence 4 (ID493-2).

³¹² Meta’s reply to question 2.b of the Commission’s request for information of 13 March 2026 (ID493-5).

- (3) [...] was caused by a [...]. This [...]. The technical problem did [...].³¹³
- (343) Thirdly, if the alleged significant increase in messaging volume actually constituted a strain on the WhatsApp system, this could be addressed not by a blanket exclusion from the platform (or a fee structure that produces the same effect) but by fair, proportionate and non-discriminatory means, such as a contribution to shared infrastructure costs, having regard to the actual cost of infrastructure development while also allowing Meta to derive an appropriate benefit.
- (344) Fourth, Meta’s arguments about additional technical support are unconvincing and *prima facie* do not justify the exclusion of third party general purpose AI assistants. Firstly, as Meta submits, [...] to general purpose AI assistants³¹⁴ and therefore could [...]. Secondly, as regards the new technologies that Meta deems necessary on the long-term for the infrastructure to be able to better support use by general purpose AI assistants, [...],³¹⁵ while the Commission understands that these features may improve user experience when accessing a general purpose AI assistant via WhatsApp, [...].
- (345) Fifth, Meta’s claim that “*no less restrictive alternative was available at the time*”³¹⁶ because even if Meta introduced pricing, the underlying technical issues would persist, is contradicted by Meta’s decision to lift the ban and introduce a pricing framework via the Revised Policy Change. Such a claim is also contradicted by Meta’s argument that interim measures ordering Meta to provide access for third party general purpose AI assistants for free would be disproportionate as “*a less onerous measure would clearly permit Meta to charge general purpose AI assistants for use of Service messages.*”³¹⁷
- (346) Therefore, the total exclusion, be it by way of a straightforward ban or a practice with an equivalent effect, of all general purpose AI assistants from WhatsApp, which are actual or potential competitors of Meta AI, is disproportionate as it goes beyond what is required to achieve Meta’s alleged aim of protecting the platform and preserving users’ experience (see further in Section 10.2 below).

7.7. Effect on trade between Member States

- (347) Article 102 TFEU prohibits any abuse of a dominant position within the internal market or in a substantial part of it insofar as it may affect trade between Member States. An abuse of a dominant position affects trade between Member States when it is capable of influencing, either directly or indirectly, actually or potentially, the pattern of trade in goods and services between Member States.³¹⁸
- (348) As the Court of Justice held in *United Brands*, if the undertaking holding a dominant position established in the internal market aims at eliminating competitors also established in the internal market, it is immaterial whether this behaviour relates directly to trade between Member States once it has been shown that such elimination will have repercussions on the patterns of competition within the internal market.³¹⁹
- (349) The Court of Justice held that Article 102 TFEU does not require it to be proved that abusive conduct has in fact appreciably affected trade between Member States, but that

³¹³ SO Response, paragraph 2.16 (ID483-8).

³¹⁴ SO Response, paragraph 2.18 (ID483-8).

³¹⁵ SO Response, paragraphs 2.18 to 2.20 (ID483-8).

³¹⁶ SO Response, paragraph 3.74 (ID483-8).

³¹⁷ SO Response, paragraph 5.10 (ID483-8).

³¹⁸ See Joined Cases C-215/96 and C-216/96 *Bagnasco v BNP a.o.*, EU:C:1999:12, paragraph 47.

³¹⁹ Case 27/76, *United Brands v Commission*, EU:C:1978:22, at paragraph 201.

it is capable of having that effect.³²⁰ The Court has also clarified that it follows from well-established case-law that the interpretation and application of the condition relating to effects on trade between Member States contained in Articles 101 and 102 TFEU must be based on the purpose of that condition, which is to define, in the context of the law governing competition, the boundary between the areas respectively covered by Union law and the law of the Member States.

- (350) Thus, EU law covers any agreement or any practice which is capable of constituting a threat to freedom of trade between Member States in a manner which might harm the attainment of the objectives of a single market between the Member States, in particular by sealing off domestic markets or by affecting the structure of competition within the internal market.³²¹
- (351) The Commission concludes that Meta's Conduct is, *prima facie*, capable of affecting the pattern of trade between Member States for the following reasons.
- (352) First, the Policy Change, when announced on 15 October 2025, covered the entirety of the EEA, and only users with Italian country code were exempted following the AGCM Decision. However, Meta introduced a pricing framework applicable to third party general purpose AI assistants first in Italy and then – by the Revised Policy Change – throughout the EEA. Therefore, as of 6 March 2026, the same terms are applicable throughout the EEA to third party general purpose AI assistants. It follows that Meta's conduct is capable of having a negative impact on competition in an area extending beyond a single Member State.
- (353) Second, Meta's rival general purpose AI providers typically offer their services throughout the EEA and are now prevented to do so following the Policy Change and the Revised Policy Change. This constitutes a threat to freedom of trade within the EEA in a manner which might harm the attainment of the objectives of undistorted competition within the internal market, in particular by affecting the structure of competition therein.
- (354) Meta did not contest that its conduct is *prima facie* capable of affecting trade between Member States.

8. URGENCY DUE TO THE RISK OF SERIOUS AND IRREPARABLE DAMAGE TO COMPETITION

8.1. Principles

- (355) Article 8(1) of Regulation No 1/2003 sets out the Commission's power to take interim measures to cases of "*urgency due to the risk of serious and irreparable damage to competition*". In this regard, the following criteria are relevant.
- (356) First, for urgency to exist, interim measures must be necessary before the decision on the substance of the case to avoid serious and irreparable damage to competition.³²² It is not necessary for the damage to materialise within days, weeks or even months, provided the interim measures are necessary before the Commission could reasonably take a decision on the substance of the case.³²³
- (357) Second, it is sufficient that the damage in question resulting from the implementation

³²⁰ Case 322/81 *Michelin v Commission*, EU:C:1983:313, paragraph 104. See also Joined Cases C-249/91 P and C-242/91 P *RTE and ITP v Commission*, EU:C:1995:98, paragraphs 69 to 70.

³²¹ Case 22/78 *Hugin v Commission*, EU:C:1979:138, paragraph 17; Case C-475/99 *Ambulanz Glöckner*, EU:C:2001:577, paragraph 47; Case C-407/04 P *Dalmine v Commission*, EU:C:2007:53, paragraph 89.

³²² Joined Cases 76, 77 and 91/89 R *RTE v Commission*, EU:C:1989:192, paragraph 12.

³²³ Commission decision of 16 October 2019 in Case AT.40608 – *Broadcom*, paragraph 467.

of the conduct at stake represents a tangible risk³²⁴ or appears likely (*i.e.* foreseeable with a sufficient degree of probability), particularly when it depends on the occurrence of a number of factors.³²⁵ While purely hypothetical damage cannot be taken into consideration, it is not necessary to establish with absolute certainty that the harm is imminent.³²⁶

- (358) Third, irreparable nature of the damage is assumed if the likely damage would subsequently be very difficult, if not impossible, to reverse by means of a final decision concluding the Commission's administrative proceeding.³²⁷ Irreparable damage can occur, *e.g.*, in the form of new developments on the market having long- term effects on supply and demand that would subsequently be very difficult, if not impossible, to reverse;³²⁸ financial losses suffered by an undertaking such as to threaten that undertaking's survival on the relevant market(s)³²⁹ or irremediably affect its market share;³³⁰ or the restriction of an undertaking's freedom to define its business policy.³³¹ Damage can be deemed irreparable even in the absence of structural or legal obstacles to reverse that damage.³³²
- (359) Fourth, the seriousness of the damage implies a certain degree of magnitude or severity of the harm to competition to be determined in the circumstances of the particular case.³³³
- (360) Fifth, the three conditions for interim measures, *i.e.* the finding of a *prima facie* infringement of competition rules, the urgent need for protective measures due to the risk of serious and irreparable damage to competition and the proportionality of interim measures, are interdependent. Consequently, the strength of the *prima facie* finding of infringement may be taken into account in the assessment of urgency and, if appropriate, of the balance of interests between the public interest of maintaining effective competition and the rights of the undertaking under investigation.³³⁴

8.2. Application to this case

- (361) The Commission concludes that if the Conduct (as described in Section 5 above) were allowed to continue, there would be a risk of a serious and irreparable damage to competition in the market for general purpose AI assistants before the Commission could reasonably take a decision on the substance of the case.
- (362) Section 8.2.1 below sets out the Commission's conclusions regarding the urgent need to prevent a risk of serious damage to competition which risks occurring in the absence of interim measures. Section 8.2.2 below sets out the Commission's conclusions regarding the irreparability of such damage.

8.2.1. Urgent need to prevent serious damage to competition

³²⁴ Case T-184/01 R *IMS Health v Commission*, EU:T:2001:259, paragraph 144 and Case C-481/01 P(R) *NDC Health v IMS*, EU:C:2002:223, paragraphs 68 to 69.

³²⁵ Case C-149/95 P(R) *Commission v Atlantic Container Line a.o.*, EU:C:1995:257, paragraph 38.

³²⁶ Case C-149/95 P(R) *Commission v Atlantic Container Line a.o.*, EU:C:1995:257, paragraph 38.

³²⁷ Case 792/79 R *Camera Care v Commission*, EU:C:1980:18, paragraph 14; Case T-44/90 *La Cinq v Commission*, EU:T:1992:5, paragraph 80.

³²⁸ Joined Cases 76, 77 and 91/89 R *RTE v Commission*, EU:C:1989:192, paragraphs 16 and 18.

³²⁹ Case T-184/01 R *IMS Health v Commission*, EU:T:2001:259, paragraph 121.

³³⁰ Case T-369/03 R, *Arizona Chemicals a.o.v Commission*, EU:T:2004:9, paragraph 76.

³³¹ Case T-184/01 R *IMS Health v Commission*, EU:T:2001:259, paragraph 130.

³³² Case C-481/01 P(R) *NDC Health v IMS*, EU:C:2002:223, paragraph 70.

³³³ Commission Decision of 18 August 1982 (IV/30.696 - *Distribution system of Ford Werke AG* - interim measure), OJ 1092 L 256, paragraphs 45 and 46.

³³⁴ See, by analogy, Case C-481/01 P(R) *NDC Health v IMS*, EU:C:2002:223, paragraph 63 and Case C- 445/00 R *Austria v Council*, EU:C:2001:123, paragraph 110.

- (363) The Commission concludes that there is an urgent need to prevent a risk of serious damage to the competitive structure of the market for general purpose AI assistants. In particular, there is an urgent need to preserve a competitive market structure by preventing Meta, as an established vertically integrated player that is dominant in the market for consumer communication applications, from harming competition at a pivotal moment for the development of the market for general purpose AI assistants.
- (364) That damage to competition consists of (a) the likely marginalisation of existing AI competitors, in particular smaller and non-vertically integrated competitors, at a time when they are scaling up and seeking investment in a nascent and fast-evolving market that can still be contested by new entrants, and (b) raising barriers to entry for any new entrants.
- (365) In the sections below, the Commission sets out the reasons why there is a tangible risk that the Conduct results in serious damage to competition if interim measures are not implemented urgently.
- (366) To that effect, the Commission first explains why WhatsApp is an important entry point to the market for general purpose AI assistants (Section 8.2.1.1). It then explains that there is a tangible risk that the Conduct substantially and immediately impacts traffic to competitors, notably the smallest ones, and that this traffic loss cannot be effectively undone by users switching from WhatsApp to other entry points, including to other consumer communication applications (Section 8.2.1.2). Further, it explains why there is a tangible risk that the traffic loss raises barriers to entry for all general purpose AI assistants and marginalises entrants, in particular smaller and non-vertically integrated entrants (Section 8.2.1.3). Finally, it explains why the urgency is maintained notwithstanding the one-month free access introduced by Meta as of 13 May 2026 (Section 8.2.1.4).

8.2.1.1. WhatsApp is an important entry point to the market for general purpose AI assistants

- (367) The Commission concludes that WhatsApp is a consumer communication application that constitutes an important entry point to the market for general purpose AI assistants. This is for the following reasons.
- (368) First, the availability of consumer communication applications as an entry point for general purpose AI assistants has to be assessed in the context of a market where large, vertically integrated companies are present and through vertical integration are able to control various means of access to consumers. Well-established players such as Meta, Microsoft or Google are able to leverage the vast market reach of their platforms to distribute their own general purpose AI assistants. Meta uses WhatsApp, Facebook and Instagram to distribute Meta AI;³³⁵ Microsoft uses Windows to distribute Copilot;³³⁶ and Google's Gemini is integrated with Android.³³⁷ Consequently, those new entrants which have no automatic and preferential access to a large user base are disadvantaged from the outset in terms of user acquisition, weakening their ability to compete on the merits on the market for general purpose AI assistants. In order to mitigate this structural disadvantage, they need to find entry points that allow them to reach users in a way that is sufficiently effective and broad to allow them to grow and achieve scale.
- (369) Second, evidence on file shows that consumer communication applications are an important entry point for general purpose AI assistants, which is difficult to replace at

³³⁵ Meta's reply to question 5 of the Commission's request for information to Meta of 8 December 2025 (ID44).

³³⁶ [...] reply to question 2 of the Commission's request for information to AI developers of 17 December 2025 (ID128-1).

³³⁷ *How do I use Gemini on Android?*, available at <https://www.android.com/ai/gemini/>, last downloaded on 21 January 2026 (ID176).

scale.

- (370) Several respondents to requests for information emphasised that consumer communication applications are a unique way for general purpose AI assistants to interact with Users, as Users are already present on these apps and are familiar with the environment.³³⁸ This in turn makes consumer communication applications a one of a kind tool for user acquisition for general purpose AI assistants as they do not imply downloading a different app or a learning curve to use it and thus offers a “*near-zero onboarding friction*”.³³⁹ The sharing function of consumer communication applications also drives organic growth of the user base of general purpose AI assistants present on these apps.³⁴⁰ Similarly, for the same reasons, consumer communication applications have high retention rates (see below with regard to WhatsApp in recitals (375) to (377)).
- (371) Furthermore, respondents to requests for information stated that consumer communication applications allow for functionalities that are technically difficult or even impossible to re-create in a different environment. In this regard, [...] explained that this is primarily true for functionalities that depend on embeddedness within existing messaging conversations and multi- party/group-chat dynamics, such as “messaging-first” operation inside existing conversations; in-thread, multi-party coordination, proactive messages based on a conversation or real-time assistance inside ongoing conversations.³⁴¹ [...] also mentioned “[...] [...]”³⁴² [...] added that “[m]essaging interfaces are also well suited to the conversational nature of [...] assistant, enabling short, incremental queries, follow-ups, and clarifications that fit naturally into chat threads. This leads to different engagement patterns and use cases than on the web or in standalone apps, including more spontaneous queries and collaborative use among multiple participants in a chat.”³⁴³
- (372) This is also evidenced by the fact that some general purpose AI assistants such as [...] or [...] are specifically designed to interact with users within consumer communication applications. As [...] explained “[...] is only distributed in messaging apps. Other distribution channels, such as native apps or a web interface, are neither technically nor economically substitutable for [...] to reach end-users. [...] Its core functionality depends on being embedded in conversational flows rather than pulling users into a separate interface.”³⁴⁴ It emphasised that [...]”³⁴⁵
- (373) Third, evidence on file shows that, among consumer communication applications,

³³⁸ Replies to question 2 of the Commission’s request for information to AI developers of 12 December 2025.

³³⁹ [...] reply to question 2 of the Commission’s request for information to AI developers of 12 December 2025 (ID118-3); [...] reply to questions 2 and 4 of the Commission’s request for information to AI developers of 12 December 2025 (ID111-1); [...] reply to question 4 of the Commission’s request for information to AI developers of 12 December 2025 (ID152-1); [...] reply to question 4 of the Commission’s request for information to AI developers of 17 December 2025 (ID128-1); [...] reply to questions 3 and 4 of the Commission’s request for information to AI developers of 17 December 2025 (ID170-3), [...] reply to question 3 of the Commission’s request for information to AI developers of 6 January 2026 (ID240-2).

³⁴⁰ [...] reply to question 4 of the Commission’s request for information to AI developers of 12 December 2025 (ID118-3); [...] reply to questions 2 and 4 of the Commission’s request for information to AI developers of 12 December 2025 (ID111-1).

³⁴¹ [...] reply to question 2 of the Commission’s request for information to AI developers of 12 December 2025 (ID98-1).

³⁴² [...] reply to question 2 of the Commission’s request for information to AI developers of 12 December 2025 (ID118-3).

³⁴³ [...] reply to question 4 of the Commission’s request for information to AI developers of 17 December 2025 (ID170-3).

³⁴⁴ [...] reply to question 2 of the Commission’s request for information to AI developers of 12 December 2025 (ID98-1).

³⁴⁵ [...] submission to the Commission of 12 March 2026, paragraph 46 (ID510-1).

WhatsApp is the most important entry point to the market for general purpose AI assistants in the EEA. In this respect reference should be made to the dominance of Meta and the market share of WhatsApp on the market for consumer communication applications (see Section 7.3 above). [...] emphasised that [...] ³⁴⁶ WhatsApp has more than [...]. ³⁴⁷ [...] submitted that “[...] *was designed from the ground up as a messaging-native AI assistant.* [...]” ³⁴⁸ It further added “[...] [...] [...]”. ³⁴⁹

- (374) Respondents to requests for information also underlined the importance of WhatsApp as an entry point in order to effectively compete on the market for general purpose AI assistants. [...] explained that “[...]” ³⁵⁰ [...] further submitted that “[...]” ³⁵¹
- (375) Respondents to the Commission’s requests for information in particular indicated that the fact that WhatsApp is a well-known and widely used product, makes it a unique tool for user acquisition and retention for general purpose AI assistants. In particular, respondents emphasised the ease of use of general purpose AI assistants on WhatsApp. Users do not need to download any new application but can use the general purpose AI assistant merely by sending a new message in a familiar environment.
 - (1) [...] stated that “[...]” ³⁵² It further added that “[...]” ³⁵³ It also mentioned the role of WhatsApp notifications in user retention: “[...]” ³⁵⁴ [...] further explained that [...]. ³⁵⁵
 - (2) [...] similarly described WhatsApp’s importance: “[...]” ³⁵⁶
 - (3) [...] submitted that “[...]” ³⁵⁷
 - (4) [...] stated that “[...]” ³⁵⁸
 - (5) [...] submitted: “[...]” ³⁵⁹

³⁴⁶ [...] reply to question 4 of the Commission’s request for information to AI developers of 12 December 2025 (ID98-1).

³⁴⁷ AGCM Decision, table 1 (page 36).

³⁴⁸ [...] reply to question 5 of the Commission’s request for information to AI developers of 6 January 2026 (ID240-2).

³⁴⁹ [...] reply to question 7 of the Commission’s request for information to AI developers of 6 January 2026 (ID240-2).

³⁵⁰ [...] reply to question 4 of the Commission’s request for information to AI developers of 12 December 2025 (ID98-1).

³⁵¹ [...] reply to question 2 of the Commission’s request for information to AI developers of 12 December 2025 (ID118-3).

³⁵² [...] reply to question 4 of the Commission’s request for information to AI developers of 12 December 2025 (ID111-1).

³⁵³ [...] reply to question 3 of the Commission’s request for information to AI developers of 12 December 2025 (ID111-1).

³⁵⁴ [...] reply to question 4 of the Commission’s request for information to AI developers of 12 December 2025 (ID111-1).

³⁵⁵ Minutes of a call with [...] of 19 March 2026, paragraph 5 (ID569-1).

³⁵⁶ [...] reply to question 4 of the Commission’s request for information to AI developers of 12 December 2025 (ID152-1).

³⁵⁷ [...] reply to question 4 of the Commission’s request for information to AI developers of 17 December 2025 (ID258-2).

³⁵⁸ [...] reply to question 4 of the Commission’s request for information to AI developers of 17 December 2025 (ID170-3).

³⁵⁹ [...] reply to question 4 of the Commission’s request for information to AI developers of 6 January 2026 (ID240-2).

- (6) [...] stated that “[...]”³⁶⁰
- (376) Organic growth inherent in the scale of WhatsApp’s user base reinforces its effectiveness in user acquisition and retention. As [...] explained: “*WhatsApp permits users to [...]*”³⁶¹ [...] also submitted that “[...]”
- (377) Evidence on file also indicates that WhatsApp is a particularly important entry point to the market with regard to users predominantly using mobile phones, as well as less tech-savvy users otherwise unlikely to use an AI assistant. [...] explained that “[...] [...]”³⁶² [...] also stated that “[...]”³⁶³ On the other hand, [...] explained that “[...]”³⁶⁴ [...] also submitted that “[...]”³⁶⁵
- (378) Several AI providers whose general purpose AI assistants are available on several consumer communication applications in addition to WhatsApp (like Telegram or Viber), highlighted the particular importance of access to WhatsApp whose benefits cannot be replaced by alternative consumer communication apps. For example:
- (a) According to [...], “[...]”^{366 367}
- (b) According to [...], WhatsApp was prioritized amongst the different messaging apps, because it offers the largest global reach, making it the most impactful channel for chat apps. Integrations with Telegram, GroupMe, and Viber only followed later.³⁶⁸
- (379) Finally, past efforts to migrate Users from WhatsApp to other distribution channels was suboptimal, resulting in lost traffic (see recitals (413) to (415)). This highlights the importance of WhatsApp as an entry point for general purpose AI assistants.
- (380) The Commission’s conclusion above is not refuted by Meta’s arguments.
- (381) First, Meta states that there are various delivery methods available for general purpose AI assistants and that the WhatsApp for Business API has a marginal importance as a delivery method.³⁶⁹
- (382) Firstly, in *Android Auto*, the Court of Justice held that where a dominant undertaking

³⁶⁰ [...] reply to question 3 of the Commission’s request for information to AI developers of 12 December 2025 (ID118-3).

³⁶¹ [...] reply to question 2 of the Commission’s request for information to AI developers of 12 December 2025 (ID111-1).

³⁶² [...] reply to question 3 of the Commission’s request for information to AI developers of 17 December 2025 (ID258-2).

³⁶³ [...] reply to question 4 of the Commission’s request for information to AI developers of 17 December 2025 (ID128-1).

³⁶⁴ [...] reply to question 3 of the Commission’s request for information to AI developers of 17 December 2025 (ID258-2).

³⁶⁵ [...] reply to questions 2 and 3 of the Commission’s request for information to AI developers of 6 January 2026 (ID240-2).

³⁶⁶ [...] reply to question 2 of the Commission’s request for information to AI providers of 12 December 2025 (ID111-1).

³⁶⁷ With regard to the data on monthly number of messages sent in the EEA via different channels, [...] explained that the data may be misleading with regard to Telegram and overstating its importance. Indeed, the number of messages sent on Telegram is relatively high because the infrastructure of Telegram is such that messages are sent more intensely and in shorter parts, thus inflating the number of messages compared to similar platforms. Should one look at the number of tokens generated via Telegram, the data would give a more accurate picture of the usage. [...]. (Minutes of a call with [...] of 19 March 2026, paragraph 6 (ID569-1))

³⁶⁸ [...] reply to questions 4 and 5 of the Commission’s request for information to AI providers of 17 December 2025 (ID128-1).

³⁶⁹ SO Response, paragraphs 3.51 to 3.55, 3.59 to 3.60 (ID483-8); SO Response, Annex 5, sections 2.2 to 2.3 (ID483-5); SSO Response, paragraph 6.13 (ID609).

has developed infrastructure not solely for the needs of its own business but with a view to enabling third-party undertakings to use that infrastructure, the condition relating to whether that infrastructure is indispensable for carrying on the business of the entity applying for access, in that there is no actual or potential substitute for that infrastructure, does not apply.³⁷⁰ For finding an abuse in such circumstances, access does not need to be indispensable, but should be such as to make the app more attractive to consumers.³⁷¹ The Commission has met this threshold in the present case, by showing that the WhatsApp for Business API is the main distribution channel for several general purpose AI assistants (and the sole one for a number of them). Even for general purpose AI assistants for which the WhatsApp for Business API is not the main distribution channel, it still represents an important means to reach incremental users that are less likely to engage with their service on other channels.³⁷²

- (383) Secondly, Meta's reliance on the fact that certain successful general purpose AI assistants have not used the WhatsApp Business API is misplaced. The examples given by Meta are undertakings which are not comparable to most of the general purpose AI assistant providers affected by the Conduct. Several of them are large technology companies that already control established consumer-facing services, allowing them to distribute their AI assistants immediately, at scale and at no material incremental cost. Google can promote Gemini through Search, Android, Gmail and other Google services; and xAI can promote Grok through its social network X. Far from showing that access to WhatsApp is unnecessary, those examples confirm the importance of embedding AI assistants into existing user-facing services in order to scale rapidly. Meta also gives the example of companies with different business models, including providers primarily active in B2B solutions such as Mistral, for whom reaching consumers directly is materially less important. Meta's examples therefore do not show that WhatsApp access is unimportant; they show only that some particularly well-resourced or differently positioned providers may have other routes to scale.
- (384) Thirdly, the WhatsApp for Business API is the main distribution channel for several general purpose AI assistants.
- (1) For [...] and [...], WhatsApp accounts for [...] user interactions in the EEA ([...] % and [...] %, respectively).³⁷³
 - (2) For [...] and [...], WhatsApp accounts for respectively [...] % and [...] % of all user interactions in the EEA.³⁷⁴
- (385) Fourthly, even for general purpose AI assistants for which the WhatsApp for Business API is not the main distribution channel, it still represents an important means to reach incremental users that are less likely to engage with their service on other channels, or to first reach and engage users that later move to their proprietary distribution channels. As previously quoted:

³⁷⁰ Case C-233/23 *Alphabet a.o. (Android Auto)*, EU:C:2025:110, paragraph 44.

³⁷¹ *Ibid.*, paragraph 52.

³⁷² See recital 385 below.

³⁷³ See [...] reply to question 6 of the Commission's request for information to AI developers of 6 January 2026 (ID240-2) and [...] submission to the Commission of 12 March 2026, paragraph 28 (ID510-1).

³⁷⁴ [...] reply to question 3 and 11 of the Commission's request for Information to AI developers of 12 December 2025 (ID152-1) and [...] reply to question 3 of the Commission's request for Information to AI developers of 12 December 2025 (ID118-3).

- (1) According to [...] “[...]”³⁷⁵ [...] also stated that “[...]”³⁷⁶
 - (2) According to [...] “[...]”³⁷⁷
 - (3) According to [...] “[...]”³⁷⁸
 - (4) According to [...], the [...].³⁷⁹
- (386) Second, Meta argues that a high proportion of WhatsApp users multi-home across a) consumer communications applications, b) potential delivery methods and c) general purpose AI assistants and therefore general purpose AI assistants are able to access the WhatsApp user base through a range of delivery methods.³⁸⁰
- (387) Firstly, the mere evidence that consumers multi-home across consumer communication applications does not mean or show that each platform is an equally effective distribution channel. This is evidenced by the market shares calculations of section 7.3.3 above, showing that WhatsApp [...], while [...]. In practice, this means that WhatsApp is (i) the [...] and (ii) where users focus [...]. In other words, what matters is not evidence of nominal multi-homing, but rather evidence on intensity of use. Market participants indeed confirmed the unique position of WhatsApp among consumer communication applications (see recitals (373) to (378) above).
- (388) Secondly, the particular relevance of WhatsApp for general purpose AI assistants, and thus the limited relevance of multi-homing among different delivery methods, is further supported by [...] (see recitals (413) to (415) below).
- (389) Thirdly, and contrary to Meta’s claims, multi-homing across general purpose AI Assistants is irrelevant for assessing the importance of WhatsApp as a distribution channel.
- (390) Third, Meta argues that WhatsApp as a distribution channel does not have unique characteristics.³⁸¹
- (391) Firstly, multiple AI providers described in detail the reasons they consider WhatsApp as a unique distribution channel for AI assistants with regard to its [...] and its [...] (see recitals (373) to (379) above).
- (392) Secondly, the fact that WhatsApp is seen as a unique entry point to the market for general purpose AI assistants is corroborated by the fact that general purpose AI assistants exclusively or predominantly relying on WhatsApp [...]. Indeed, the viability of accessing general purpose AI assistants via consumer communication applications has also been [...]. As an example, in [...].³⁸² This is in itself a strong indication of the credibility and soundness of [...] business model centred around distribution [...]. Access to venture capital funding is highly selective and competitive, particularly in the AI sector, where the capital requirements are substantial and where new entrants

³⁷⁵ [...] reply to question 4 of the Commission’s request for information to AI developers of 17 December 2025 (ID258-2).

³⁷⁶ [...] reply to question 3 of the Commission’s request for information to AI developers of 17 December 2025 (ID258-2).

³⁷⁷ [...] reply to question 4 of the Commission’s request for information to AI developers of 17 December 2025 (ID170-3).

³⁷⁸ [...] reply to question 4 of the Commission’s request for information to AI developers of 17 December 2025 (ID128-1).

³⁷⁹ Minutes of a call with [...] of 19 March 2026, paragraph 5 (ID569-1).

³⁸⁰ SO Response, paragraphs 3.56 to 3.57 (ID483-8).

³⁸¹ SO Response, Annex 5, sections 3.1 to 3.5 (ID483-5).

³⁸² Submission of [...] of 28 November 2025, paragraph 8 (ID100-1).

must compete for funding with well-established incumbents and a large pool of aspiring innovators. Venture capital investors conduct rigorous assessments of technological feasibility, scalability, market demand, and the quality of the team before committing funds. A valuation of this magnitude therefore reflects a market-based judgement by sophisticated investors that the underlying technology and business model are innovative, viable, and capable of generating future growth.

- (393) Fourth, Meta argues that older users are not confined to WhatsApp or are absent from standalone AI assistant apps.³⁸³ In particular, Meta submits that demographic data on AI assistant app users in Germany shows that age distributions across WhatsApp and a selection of standalone AI assistants are broadly comparable.
- (394) Firstly, the Commission points to the fact that Meta’s argument only concerns older users – it does not address the remaining points related to users with low digital literacy or worse internet connection (see recital (377) above).
- (395) Secondly, the evidence relied upon by Meta does not [...]. Indeed, Meta’s data³⁸⁴ [...]. But it does not establish [...] which would be the relevant question at stake. In fact, the fact that a [...], was able to raise funds based on the proposition of [...] is in itself indicative of the advantage of WhatsApp in this regard.
- (396) Thirdly, Meta did not submit any evidence to support that the data presented with regard to Germany would be representative of market dynamics across the entirety of the EEA.
- (397) Fifth, Meta argues that general purpose AI assistants are not used more intensively on WhatsApp compared to other distribution channels.³⁸⁵
- (398) Firstly, more intense use of an AI assistant on a channel is not necessary evidence that such channel has unique characteristics. As the evidence on file shows, a channel – WhatsApp – might have unique characteristics because it allows to reach users that [...], because it [...] or because it is [...] (see in this regard recitals (373) to (377)).
- (399) Secondly, Meta only brings [...] to argue that AI assistants are not used more intensively on WhatsApp compared to other channels. What is more, [...].
- (400) Thirdly, it can be reasonably expected that engagement on WhatsApp is less intense than on other distribution channels, at least for those general purpose AI assistants which mainly use the WhatsApp for Business API for acquiring new customers, which, after an initial engagement there, are rerouted to other channels. For example, [...] explained that “[...]. *It is therefore normal that* [...] *To the contrary,* [...] *This is consistent with* [...]”³⁸⁶
- (401) Sixth, Meta argues that many other services that distribute general purpose AI assistants are also used by a large number of users and therefore WhatsApp is not unique in its ability to allow AI assistants to reach a large user base.³⁸⁷
- (402) Firstly, Meta’s examples precisely illustrate that embedding a general purpose AI assistant into a service that is used routinely by a large user base represents a common distribution strategy for large digital incumbents.
- (403) Secondly, Meta’s examples refer to either services that do not allow integration of third party general purpose AI assistants, such as Google Search, Android, the Windows OS, or to services that struck distribution deals with large providers (iOS). Such methods

³⁸³ SO Response, Annex 5, section 3.2 (ID483-5).

³⁸⁴ SO Response, Annex 5, Figures 3 and 4 (ID483-5).

³⁸⁵ SO Response, Annex 5, section 3.3 (ID483-5).

³⁸⁶ Minutes of a call with [...] of 19 March 2026, paragraph 8 (ID569-1).

³⁸⁷ SO Response, Annex 5, section 3.4 (ID483-5).

are likely unavailable for new entrants, and it is precisely the reason why preserving access to available distribution channels for startups and smaller players is key to prevent a risk of serious and irreparable harm to this nascent market.

- (404) Finally, Meta argues that WhatsApp has operational and functional limitations which may constrain the growth of general purpose AI assistants.³⁸⁸ However, the fact that several general purpose AI assistants opted for a business model centred around distribution via WhatsApp and managed to achieve rapid growth via WhatsApp proves that any limitations that WhatsApp might have do not hinder growth, nor do they offset the advantages linked to this channel.

8.2.1.2. *Impact of the Conduct on traffic to competitors*

- (405) The Commission concludes that there is a tangible risk that the Conduct substantially and immediately impacts traffic to competitors, notably the smallest ones, and that this traffic loss cannot be effectively undone by users switching to other entry points. This is for the following reasons.
- (406) First, evidence on file suggests that the exclusion of AI providers from WhatsApp is likely to lead to a significant loss of users for those providers.
- (407) While also large AI competitors expect to lose a large share of their WhatsApp users due to the conduct in question, this will have a lesser impact on their overall performance because they are less dependent on this distribution channel. Small competitors however are likely to lose a significant share of their overall user base.
- (408) [...] – only present on WhatsApp – will lose all its users.³⁸⁹ [...] expects the immediate loss of [...] % of its users.³⁹⁰ [...] explained that “[...]”.³⁹¹
- (409) Second, even if rival AI assistant providers were to attempt to retain their users by using other distribution channels, evidence on file suggests that a significant portion of those users would be lost, as they would not switch from WhatsApp to another distribution channel such as a standalone app or website.
- (410) [...] explained with regard to its users on WhatsApp that “[w]hile [...] *has previously executed country-by-country migration campaigns to move users to owned channels*, [...]”.³⁹²
- (411) [...] submitted that “[...]”.³⁹³ It further added that “[...]”.³⁹⁴
- (412) [...] also explained that it “[...]”.³⁹⁵ It further emphasised that “[...] [...] [...] [...]”.³⁹⁶
- (413) This is also highlighted by past efforts of competitors to shift users from WhatsApp to

388 SO Response, Annex 5, section 3.5 (ID483-5).

389 [...] reply to question 3 of the Commission's request for information to AI providers of 6 January 2026, emphasis added by the respondent (ID240-2).

390 [...] reply to question 6 of the Commission's request for information to AI developers of 12 December 2025 (ID118-3).

391 [...] reply to question 6 of the Commission's request for information to AI developers of 12 December 2025 (ID111-1).

³⁹² [...] reply to question 6 of the Commission's request for information to AI developers of 12 December 2025, emphasis added by the respondent (ID111-1).

393 [...] reply to question 6 of the Commission's request for information to AI developers of 17 December 2025 (ID258-2).

394 [...] submission to the Commission of 16 March 2026, paragraph 2.6 (ID532-8).

395 [...] reply to question 6 of the Commission's request for information to AI developers of 17 December 2025 (ID) 170-3).

³⁹⁶ [...] reply to question 3 and 4 of the Commission's request for information to AI developers of 6 January 2026 (ID170-3).

a different environment. [...] explained: “[...]”³⁹⁷

(414) [...] reported similar results: “*during* [...]”³⁹⁸

(415) According to data provided by [...] on [...], after the Policy Change entered into force, “[...]”³⁹⁹ This demonstrates that the Policy Change has already had, within a matter of days, [...]. For the reasons explained in this section, this impact of [...] without interim measures.

(416) The Commission’s conclusion that there is a tangible risk that the Conduct substantially and immediately impacts traffic to competitors, notably the smallest ones, and that this traffic loss cannot be effectively undone by Users switching to other entry points is not contradicted by Meta’s arguments stating that the vast majority of general purpose AI assistants have never operated on the WhatsApp for Business API and there are alternative channels available.⁴⁰⁰ These arguments were addressed in detail in recitals (381) to (385) above.

8.2.1.3. *The Conduct leads to higher barriers to entry and to the marginalisation of competitors*

(417) The Commission concludes that there is a tangible risk that the traffic loss raises barriers to entry for all general purpose AI assistants and marginalises existing competitors and new entrants, in particular smaller and non-vertically integrated AI providers. This is for the following reasons.

(418) First, it results from all of the elements above that the Conduct will raise barriers to entry for all general purpose AI assistants at a pivotal moment for competition in a nascent and fast-evolving market when it is critical to preserve the competitive process. This is the direct consequence of the fact that WhatsApp, [...] ⁴⁰¹ will be effectively closed to any new AI assistant entrant, and that the loss of access to the users cannot be effectively undone. This applies not only to small AI assistants, but also to larger ones. [...] stated that “[...]”⁴⁰² [...] explained that “[...] [...]”⁴⁰³

(419) Moreover, evidence in the file shows that there is a tangible risk that the loss of user base severely and negatively impacts the financial health and viability of smaller competitors irretrievably already on the short- and medium-term due to difficulty to raise new financing, loss of past investments, decrease of revenues and increased costs in terms of product modification and marketing spend.

(1) [...] explained that “[...]” It added that [...]”⁴⁰⁴

(2) [...] explained that “[...]”⁴⁰⁵ It further added that “[...]”⁴⁰⁶

³⁹⁷ [...] reply to question 2 of the Commission’s request for information to AI developers of 12 December 2025 (ID118-3).

³⁹⁸ [...] reply to question 4 of the Commission’s request for information to AI developers of 12 December 2025 (ID111-1).

³⁹⁹ Submission of [...] to the Commission of 16 January 2026 (ID169-1).

⁴⁰⁰ SO Response, paragraph 4.5 (ID483-8); SO Response, Annex 5, section 4.1 (ID483-5).

⁴⁰¹ [...] reply to question 5 of the Commission’s request for information to AI developers of 17 December 2025 (ID128-1).

⁴⁰² [...] reply to question 6 of the Commission’s request for information to AI developers of 17 December 2025 (ID128-1).

⁴⁰³ [...] reply to question 6 of the Commission’s request for information to AI developers of 17 December 2025 (ID258-2).

⁴⁰⁴ [...] reply to question 6 of the Commission’s request for information to AI developers of 12 December 2025 (ID118-3).

⁴⁰⁵ [...] reply to question 6 of the Commission’s request for information of 6 January 2026 (ID240-2)

⁴⁰⁶ [...] reply to question 6 of the Commission’s request for information of 6 January 2026 (ID240-2)

- (3) [...] submitted that “[...]” It has further predicted a [...] % decline in revenue, an increased cash burn “[...]” as a loss of past investment between EUR [...] million.⁴⁰⁷
- (4) [...] explained that “[...]”.⁴⁰⁸
- (5) [...] explained that “[...]”.⁴⁰⁹
- (420) Additionally, the removal from WhatsApp is also likely to cause serious reputational damage to general purpose AI assistants competing with Meta (see recital (459) below).
- (421) Second, as a result, there is a tangible risk that small AI assistants will be marginalised.
- (422) Firstly, general purpose AI assistants exclusively distributed through WhatsApp are likely to exit the market. This is the case for [...]: “[...]”.⁴¹⁰ It further stated that other messaging apps are not viable substitutes because of their much smaller user base and the fact that switching would require users to download a new app leading to the same accessibility barriers as with dedicated AI apps.⁴¹¹
- (423) Secondly, the Conduct is likely to deter entry to the market. [...] explained that “[...]”.⁴¹² It further clarified that it “[...]” imposed by Meta⁴¹³ and that it [...].⁴¹⁴
- (424) Thirdly, smaller companies – which are disadvantaged regarding access to users compared to vertically integrated competitors⁴¹⁵ – are likely to be marginalised due to the elimination of an important access to the market as, due to the substantial and immediate impact of loss of traffic that cannot be undone by switching to other entry points,⁴¹⁶ they will not be able to scale up and achieve their full potential. [...] explained that it is “[...]”.⁴¹⁷
- (425) Third, the above structural changes are likely to ultimately limit consumer choice and increase the risk of market tipping. As [...] submitted: “[...]”, *Meta’s new WhatsApp API policy* [...].⁴¹⁸
- (426) The [...] also stated that “[...]”. [...]
- (427) [...]
- (428) [...]”.⁴¹⁹
- (429) Finally, the exit or marginalisation of competitors, in particular smaller and non-

⁴⁰⁷ [...] reply to question 6 of the Commission’s request for information to AI developers of 12 December 2025 (ID111-1), emphasis added by the respondent.

⁴⁰⁸ [...] reply to question 6 of the Commission’s request for information of 12 December 2025 (ID98-1).

⁴⁰⁹ [...] reply to question 6 of the Commission’s request for information to AI developers of 17 December 2025 (ID170-3).

⁴¹⁰ [...] reply to question 6 of the Commission’s request for information to AI developers of 6 January 2026 (ID240-2), emphasis added by the respondent.

⁴¹¹ [...] reply to question 3 of the Commission’s request for information to AI providers of 6 January 2026, emphasis added by the respondent (ID240-2).

⁴¹² [...] reply to question 6 of the Commission’s request for information to AI providers of 12 December 2025 (ID98-1).

⁴¹³ [...] submission to the Commission of 12 March 2026, paragraph 26 (ID510-1).

⁴¹⁴ [...] submission to the Commission of 12 March 2026, paragraph 29 (ID510-1).

⁴¹⁵ See Section 8.2.1.1 above.

⁴¹⁶ See Section 8.2.1.2 above.

⁴¹⁷ [...] reply to question 6 of the Commission’s request for information to AI providers of 12 December 2025 (ID152-1).

⁴¹⁸ [...] reply to question 6 of the Commission’s request for information to AI providers of 17 December 2025 (ID258-2).

⁴¹⁹ [...] submission to the Commission of 12 March 2026, paragraphs 47 to 51 (ID510-1).

vertically integrated competitors, is likely to reduce innovation on the market for general purpose AI assistants at a pivotal moment for competition in a nascent and fast-evolving market when it is critical to preserve the competitive process. Indeed, smaller players often bring about new innovative features in order to attract users and be able to compete with larger, more established competitors. [...] and [...], for example, use a multi-agent system instead of relying on a single model to perform all tasks. They also focus on privacy and feature control, which may be especially interesting for European consumers.⁴²⁰ [...].⁴²¹

- (430) To conclude, the Commission considers it necessary to preserve the competitive process on a particularly important market with systemic impact on other sectors of the internal market economy, to ensure that every actual or potential driver for competition in the general purpose AI assistant market has access to the market.
- (431) The Commission's conclusion above is not refuted by Meta's arguments.
- (432) First, Meta argues that the small providers the Commission identifies as being at risk collectively account for [...] % of total general purpose AI assistants in the EEA and as such do not constitute a genuine competitive constraint.⁴²²
- (433) However, it is incorrect to dismiss the competitive relevance of general purpose AI assistants solely on the basis of their current size. Many of these players are innovative entrants experimenting with new ways of integrating AI into consumer services, including novel interfaces and specialised use cases. In digital markets characterised by rapid technological change, small and emerging firms often play a crucial role in driving dynamic competition and innovation. Start-ups in particular are frequently the source of new technological approaches and business models. Assessing their relevance purely on the basis of current market shares risks overlooking their potential to expand, attract users, and introduce competitive constraints over time. For this reason, competition analysis should not discount the importance of such players merely because they are currently small, but should instead consider their role as sources of innovation, experimentation, and future competitive pressure.
- (434) Meta's arguments seek to reduce the competitive process to a question of financial resources, dismissing the relevance of competitors with small shares and size today. But the competitive constraint a competitor can pose in this market cannot be reduced to an examination of their financial means or of their current limited market share. It is not indicative of a competitors' potential growth in terms of innovation. Equally, it does not mean that such a competitor is less efficient than rivals that have larger market shares and resources today. The Commission seeks to preserve a competitive process where the best general purpose AI assistants can prosper in the medium- to long-term (through innovation and experimentation), not a market conditioned by financial means in the short-term.
- (435) Second, Meta argues that the market exit of general purpose AI assistants exclusively distributed via WhatsApp must be attributed to their overreliance on WhatsApp, rather than to the Conduct.⁴²³
- (436) However, in view of the fact that the WhatsApp for Business API was developed not for the needs of Meta's own business but with a view to enabling third-party

⁴²⁰ Submission of [...] to the Commission of 28 November 2025, paragraphs 16 and 24 (ID100-1), [...] reply to question 1 of the Commission's request for information to AI providers of 12 December 2025 (ID111-1).

⁴²¹ [...] reply to question 1 of the Commission's request for information to AI providers of 12 December 2025 (ID118-3).

⁴²² SO Response, paragraph 4.6 (ID483-8), SSO Response, paragraph 6.6 (ID609).

⁴²³ SO Response, paragraph 4.16 (ID483-8)

undertakings to use that infrastructure, and that indeed it was open for general purpose AI assistants until a sudden change of policy by Meta, it was reasonable for those AI assistants to rely upon this infrastructure. The fact that general purpose AI assistants exclusively or largely distributed via WhatsApp were able to secure funds based on such business plans underlines the solidity of their approach, and those providers should not be faulted for relying on a certain distribution channel, or for the consequences of Meta's Conduct.

- (437) Third, Meta submits that many small-, mid-sized and large competitors operate successfully without using or relying on WhatsApp.⁴²⁴ This argument is addressed in recitals (381) to (385) above.
- (438) Fourth, Meta claims that large general purpose AI assistants operating on the WhatsApp for Business API are not affected by the Conduct.⁴²⁵
- (439) Firstly, this is incorrect. It is true that the Conduct is unlikely to make large general purpose AI assistants exit the market, and indeed this is not the claim of this decision. But the market investigation revealed several ways in which the Conduct would still be capable of harming them, such as limiting their growth, or loss of investment, access to specific user base, reputational damage (see Sections 8.2.1.3 and 8.2.2). Moreover, it is settled case law the notion of exclusionary effects under Article 102 TFEU is not limit to the full-fledged exclusion of competitors. The notion of exclusionary effects covers a broad range of possible hindrances to the normal competitive process between undertakings, including marginalisation of competitors, an increase in barriers to entry or expansion,⁴²⁶ the hampering or elimination of effective access to markets or to parts thereof,⁴²⁷ the imposition of constraints on the potential growth of competitors,⁴²⁸ and the removal of or reduction in the competitors' ability or incentive to exercise a competitive constraint on the dominant undertaking.⁴²⁹
- (440) Secondly, even if large general purpose AI assistants were entirely unaffected by the Conduct, this would not mean that the Conduct has no harmful effect on competition.
- (441) Protecting competition in the context of interim measures does not mean that if any competitor remains on the market, there is no prospect of serious and irreparable harm to competition. It is not the role of the dominant undertaking to dictate how many viable competitors will be allowed to compete.⁴³⁰ Marginalising or excluding an entire category of competitors, which are small only in terms of their current share and size (which is not indicative of their merits in terms of innovation), necessarily distorts the competitive process, all the more so in new and fast-evolving industries where innovation and quality play a crucial role in shaping the market future. Small innovators, including startups, are an important source of competition constraints on incumbents, in particular in nascent technology markets, as long as they are allowed to enter and grow based on their merits.
- (442) Fifth, Meta argues that the market remains dynamic and is characterised by consistent new entrants and innovation.⁴³¹ However, this does not change the fact that the Conduct

⁴²⁴ SO Response, paragraph 4.19 (ID483-8), SSO Response, paragraph 6.7 (ID609).

⁴²⁵ SO Response, paragraph 4.6 (ID483-8), SSO Response, paragraph 6.7 (ID609).

⁴²⁶ Case C-457/10 P *AstraZeneca v Commission*, EU:C:2012:770, paragraph 154.

⁴²⁷ Case T-604/18 *Google and Alphabet v Commission (Google Android)*, EU:T:2022:541, paragraph 281.

⁴²⁸ Case C-333/21 *European Superleague Company*, EU:C:2023:1011, paragraph 131.

⁴²⁹ Case C-377/20 *Servizio Elettrico Nazionale and Others*, EU:C:2022:379, paragraphs 55-56; and Case Case C-233/23 *Alphabet and Others*, EU:C:2025:110, paragraph 58-60.

⁴³⁰ Case C-549/10 P *Tomra a.o. v Commission*, EU:C:2012:221, paragraph 42.

⁴³¹ SO Response, paragraph 4.13 (ID483-8), Annex 5 of the SO Response, paragraph 99 (ID483-5), SSO

is capable of restricting that level of competition. At this juncture of the development of the market, it is important to keep all entry points available for new entrants in order to avoid the risk of a serious and irreparable harm to its competitiveness.

- (443) Sixth, Meta argues that many small general purpose AI assistants have recently been successful in raising funds.⁴³² However, this does not contradict that Meta’s conduct leads to higher barriers to entry. The investigations of the Commission and other competition authorities in other jurisdictions are publicly known and therefore create reasonable expectation of competition law enforcement. One cannot assume that the market takes the view that competition authorities will let a conduct prevail in the circumstances where it would be unlawful. Consequently, the success of smaller players in finding investments after the implementation of the Conduct does not entail that WhatsApp does not constitute an important entry point to the market for general purpose AI assistants.
- (444) Seventh, Meta argues that no peril to the financial viability of rival general purpose AI assistants was established and that these are well-funded companies that could afford to pay the fees.⁴³³
- (445) As outlined in recital (419) above, the Commission based its analysis on information provided by third party general purpose AI assistants, which are in a better position to assess their own financial situation and several general purpose AI assistants that submitted feedback to the Commission demonstrated that the Conduct would irretrievably harm their financial viability. Moreover, the Commission emphasises that it does not exclude the introduction of a fair and sustainable fee in order to cover Meta’s infrastructural costs (provided that such a fee would comply with the requirements of *Android Auto*, unlike the Revised Policy Change), nor did competitors refuse to pay such a fee for the access to the WhatsApp for Business API.
- (446) Eighth, Meta submits that there is no risk of market tipping as a) Meta AI is a small player facing huge and much more successful competitors and [...]; b) the market for general purpose AI assistants is characterised by the wide practice of multi-homing and no direct or indirect network effects; c) in the counterfactual a number of small general purpose AI assistants would have not operated on WhatsApp; and d) even if the Conduct marginally affected competitive dynamics, the risk of market tipping cannot be considered as tangible.⁴³⁴
- (447) Firstly, market tipping is only one element in the Commission’s analysis of serious and irreparable damage to competition next to higher barriers to entry, marginalisation of smaller general purpose AI assistants, limitation of consumer choice and reduction of innovation.
- (448) Secondly, pre-Conduct market shares in a nascent market or the pre-Conduct share of Meta AI queries via WhatsApp is not indicative of the impact of the Conduct on the market. Indeed, respondents to the Commission’s market investigation considered market tipping a tangible risk. As [...] submitted: “[...]”⁴³⁵ [...] further added that “[...]”⁴³⁶

8.2.1.4. The urgency is unaffected by the one-month suspension of the Conduct

Response, paragraph 6.20 (ID609).

⁴³² SO Response, paragraph 4.14 (ID483-8).

⁴³³ SSO Response, paragraphs 6.14 to 6.16 (ID609).

⁴³⁴ SO Response, paragraph 4.8 (ID483-8), SSO Response, paragraph 6.10 (ID609).

⁴³⁵ [...] submission to the Commission of 16 March 2026, paragraph 2.6 (ID532-8).

⁴³⁶ [...] submission to the Commission of 12 March 2026, paragraph 25 (ID510-1).

- (449) As described in recital (31) above, on [...], Meta informed the Commission that it would restore free access to the WhatsApp for Business API for general purpose AI assistants in the EEA, for a period of one month starting on 13 May 2026, a period during which Meta and the Commission would discuss with the view to determining whether the case could be subject to Article 9 commitments proceedings.
- (450) After this period of one month, [...]. Therefore, all considerations described in Sections 8.2.1.1 to 8.2.1.3 with regard to the urgent need to prevent serious damage to competition still apply as of the date of this Decision. In addition, [...] this would also not affect the urgency due to the fact that [...], [...]. In addition, [...], which is significantly above Meta's costs, as set out in section 7.5.2.4.2.
- (451) In order to avoid the imminent risk of returning to the Conduct and to avoid the materialisation of the serious and irreparable harm, as well as to provide certainty for market participants with regard to the availability of the WhatsApp for Business API as an entry point to the market, the present Decision imposes interim measures before the one-month-suspension of the Conduct ends.

8.2.2. *Irreparability of the damage to competition*

- (452) The Commission concludes that the damage to competition would be very difficult, if not impossible, to reverse by means of a decision concluding the Commission's administrative procedure. This is for the following reasons.
- (453) The window of opportunity for small players to become effective competitive forces in such a dynamic industry is very likely to be closed in 2-3 years when such final decision can be reasonably expected to be adopted. This is because of the immediate impact of the change of WhatsApp Business Solution Terms on competition (see Section 8.2.1.3 above), as well as the fact once the technology and the market have become mature, and users have been trained to use their preferred services, there will be much more limited opportunity for new entrants to achieve inroads in the market.
- (454) First, it is unlikely that, once a company has exited this market that, it would have incentives to re-enter at a later point in time.
- (455) Firstly, the market for general purpose AI assistants is a nascent technology market, where it is crucial to preserve the competitiveness of the market and prevent the exclusion or marginalisation of new entrants that can mature into a significant competitive constraint on well-established technological companies whilst the Conduct also raises barriers to expansion for some large AI assistants, it is particularly damaging for new entrants. Once the technology and the markets have become mature, the window of opportunity for new entrants (and new services) may close due to the likely emergence of insurmountable barriers to entry once the market is locked by large (and mostly vertically integrated) general purpose AI assistants' providers.
- (456) Secondly, given that the market for general purpose AI assistants is recognised as being an increasingly competitive hiring landscape,⁴³⁷ it may prove very difficult for a company to attract or re-hire the personnel (that may have been laid off due to the company being marginalised) necessary to scale up the business again (or re-enter the market). The difficulties of competing with the salaries and conditions offered by large

⁴³⁷ *Widening talent gap threatens executives' AI ambitions*, Bain & Company, 4 March 2025, available at <https://www.bain.com/about/media-center/press-releases/20252/widening-talent-gap-threatens-%20executives-ai-ambitions--bain--company/>, last downloaded on 22 January 2026 (ID195). *Meta is offering multimillion-dollar pay for AI researchers, but not \$100M 'signing bonuses'*, TechCrunch, 27 June 2025, available at <https://techcrunch.com/2025/06/27/meta-is-offering-%20multimillion-dollar-pay-for-ai-researchers-but-not-100m-signing-bonuses/>, last downloaded on 22 January 2026 (ID197).

players are widely recognised, as well as the fact that the intense fight to procure this precious input may lead to “acqui-hires”, *i.e.* transactions whereby a player acquires all or almost all the key employees of the target company.⁴³⁸

- (457) Thirdly, it appears unlikely that investors would be ready to invest again in undertakings that have already failed entering the market at a moment where it was the most dynamic and the most prone to entry (see recital (419) on the financial impact of the Conduct).
- (458) Fourthly, the AI sector in which Meta and its competitors are active is characterised by rapid technological change,⁴³⁹ frequent new product introductions and enhancements. Discontinuation of R&D investment required to develop and bring to market new and enhanced technologies and products is therefore likely to lead to an irreversible failure to keep pace with technological advances and to remain competitive in the relevant markets.
- (459) Second, these companies might also suffer reputational damage as their exit from WhatsApp could be seen by their Users as reflecting their own business decision and not a decision by Meta. The re-launch (on WhatsApp) of a previously discontinued product offering (following a Commission’s decision on the substance) may be made more difficult due to the loss of customers’ confidence. While this might disproportionately affect the small start-ups which do not yet have a strong brand name, it may also affect the larger AI providers.
- (1) [...] explained that “[...]”⁴⁴⁰
- (2) [...] explained that: “[...]”⁴⁴¹
- (3) [...] explained that: “[...]”⁴⁴²
- (4) [...] explained that: “[...]”⁴⁴³
- (460) Third, damage to innovation would unlikely be reversed by means of a Commission decision on the substance. This is because it is impossible for a Commission decision on the substance to undo delays in innovation that would occur in the interim or to bring to market products that have been abandoned in the interim.
- (461) Fourth, given that damage to competition and innovation are unlikely to be reversed for the reasons outlined above (see recitals (454) to (460)), the consumer harm that would likely derive from that damage to competition and innovation is also unlikely to be reversed.
- (462) The [...] summarised as follows: “[...]”⁴⁴⁴

⁴³⁸ European Commission, *Competition Policy Brief – Competition in Generative AI and Virtual Worlds*, Issue 3 of September 2024, page 5.

⁴³⁹ *Tech industry enters a hyper-velocity AI moment, unlocking new opportunities for 2026*, EY, 18 December 2025, available at https://www.ey.com/en_ro/newsroom/2025/12/tech-industry-enters-a-hyper-velocity-ai-moment--unlocking-new-o, last downloaded on 22 January 2026 (ID198). *It’s not your imagination: AI is speeding up the pace of change*, TechCrunch, 30 May 2025, available at <https://techcrunch.com/2025/05/30/its-not-your-imagination-ai-is-speeding-up-the-pace-of-change/>, last downloaded on 22 January 2026 (ID199).

⁴⁴⁰ [...] submission to the Commission of 28 November 2025, paragraph 163 (ID100-1).

⁴⁴¹ [...] reply to Question 6 of the Commission’s request for information to AI providers of 12 December 2025 (ID111-1), emphasis added by the respondent.

⁴⁴² [...] reply to Question 6 of the Commission’s request for information to AI providers of 12 December 2025 (ID258-2).

⁴⁴³ [...] reply to Question 6 of the Commission’s request for information to AI providers of 12 December 2025 (ID170-3).

⁴⁴⁴ [...] submission to the Commission of 12 March 2026, paragraph 55 (ID510-1).

- (463) [...] submitted that “[...]”.⁴⁴⁵
- (464) On the basis of the above, the Commission concludes that in absence of interim measures the competitive landscape on the nascent and fast-evolving market for general purpose AI assistants is likely to irrevocably worsen at a pivotal moment for competition due to higher barriers to entry and expansion, less competitors and stifled innovation.
- (465) Meta contests the Commission’s findings regarding the irreparability of the damage to competition. The Commission’s conclusion above is not refuted by Meta’s arguments set out below.
- (466) First, Meta argues that even small general purpose AI assistants can and do compete successfully via alternative channels.⁴⁴⁶ This argument is addressed in recitals (381) to (385) above.
- (467) Second, Meta argues that there is no credible reputational risk arising from general purpose AI assistants’ exit from WhatsApp as it is well-known publicly that the Policy Change was initiated by Meta and in any event, a temporary loss of consumer confidence cannot be considered as irreparable harm.⁴⁴⁷
- (468) Firstly, the fact that Meta publicly announced that its decision to ban general purpose AI assistants from WhatsApp does not preclude reputational damage because i) individual users may not follow press releases but rather just notice the loss of functionality; ii) some AI assistants were optimised for WhatsApp; iii) regarding investors, business plans were developed with WhatsApp as part of the commercialisation.
- (469) Secondly, reputational damage contributes to the long-lasting negative effects of the Conduct and makes re-engagement more difficult on a long-term as well.
- (470) Third, Meta argues that any financial harm would be reversible. If the Commission were to ultimately find that the Conduct constitutes an abuse of dominance in breach of Article 102 TFEU, the impacted general purpose AI assistants could recover the fees paid in full through civil action against Meta.⁴⁴⁸
- (471) Firstly, Meta’s argument is hypothetical and ignores the time factor between the harm and any potential financial compensation. Leaving aside the question of the cost of such legal action, small rivals are unlikely to be able to remain on the market given the unsustainable fees until they could succeed in a civil procedure based on the Commission’s final decision on the substance of the present case.
- (472) Secondly, even though some financial impact may be alleviated for individual competitors, this would not reverse the harm to competition.
- (473) Thirdly, there is an obvious contradiction in claiming that investments necessary to continue to allow the use by general purpose AI assistants of the WhatsApp for Business API are such that the exclusion of these rivals is objectively justified, while claiming that financial harm brought about by the Conduct on third party general purpose AI assistants is reparable. As explained in recital (422) by [...], “[...]”.⁴⁴⁹

⁴⁴⁵ [...] submission to the Commission of 16 March 2026, paragraph 2.6 (ID532-8).

⁴⁴⁶ SO Response, paragraph 4.19 (ID483-8).

⁴⁴⁷ SO Response, paragraph 4.19 (ID483-8).

⁴⁴⁸ SSO Response, paragraph 6.17 (ID609).

⁴⁴⁹ [...] reply to question 6 of the Commission’s request for information to AI developers of 6 January 2026 (ID240-2), emphasis added by the respondent.

9. INTERIM MEASURES

- (474) In light of the finding set out in Section 7 above that Meta has *prima facie* engaged in an infringement of Article 102 TFEU and Article 54 of the EEA Agreement and the urgent need to prevent serious and irreparable damage to competition as described in Section 8 above, the Commission considers that interim measures are required to ensure the effective exercise of its competition law enforcement powers and, in particular, the effectiveness of any final decision it may take as regards the compatibility of Meta's conduct with the rules of competition laid down in Article 102 TFEU and Article 54 of the EEA Agreement.
- (475) The Commission concludes that the objective of ensuring the effectiveness of any final decision in this case can be achieved by ordering Meta to:
- (1) re-instate access for third party general purpose AI assistants to the WhatsApp for Business API under the same terms and conditions that were in place before the Policy Change of 15 October 2025, and maintain access on those terms and conditions until the Commission adopts a final decision on the merits in this case;
 - (2) allow third party general purpose AI providers that had to send to their users the WhatsApp message related to the discontinuation of their inclusion in WhatsApp referred to in recital (42) of this decision during the alleged "grace period" to send a WhatsApp message informing users of their renewed inclusion on WhatsApp;
 - (3) refrain from adopting any new provisions that have the same object or effect as the Conduct (as defined at recital (177) of this decision), in whole or in part, until the Commission adopts a final decision on the merits in this case or, in the absence of a finding of an infringement, the closure of the Commission's investigation.
- (476) Meta shall have 5 working days from the date of notification of this Decision to implement the measures described in recital (475) above. Meta shall have 10 working days from the date of notification of this Decision to inform the Commission of the measures it has put in place to ensure compliance with the Decision.

10. PROPORTIONALITY AND BALANCE OF INTEREST

10.1. Principles

- (477) It is settled law that interim measures should be indispensable for the effective exercise of the Commission's functions and restricted to what is necessary in the given situation.⁴⁵⁰ It follows that the interim measures must come within the framework of a possible final decision which may be adopted by the Commission.⁴⁵¹
- (478) Proportionality is assessed by weighing the public interest in avoiding a serious and irreparable damage to competition against the likely impact of the envisaged interim measures on the undertaking at stake.⁴⁵² In this regard, it should be taken into account whether it would be possible to reverse the situation that would be brought about by adopting interim measures and conversely whether a final decision in the case at stake

⁴⁵⁰ See, e.g., Case 792/79 R *Camera Care v Commission*, EU:C:1980:18, paragraphs 18 to 19; Joined Cases 228 and 229/82 *Ford v Commission*, EU:C:1984:80, paragraph 19; Case T-23/90 *Peugeot v Commission*, EU:T:1991:45, paragraph 19.

⁴⁵¹ Joined Cases 228 and 229/82 *Ford v Commission*, EU:C:1984:80, paragraph 19.

⁴⁵² Case C-149/95 P(R) *Commission v Atlantic Container Line and Others*, EU:C:1995:257, paragraph 52.

would be prevented from being fully effective in the absence of interim measures.⁴⁵³

10.2. Application to this case

- (479) The Commission concludes that the envisioned interim measures described in Section 9 above are proportionate, for the following reasons.
- (480) On the one hand, the imposition of interim measures is necessary to preserve the effective exercise of the Commission’s enforcement powers. If the measures described in section 9 above were not put in place pending the Commission’s final determination of whether, through the Policy Change and the Revised Policy Change, Meta is breaching Article 102 TFEU and Article 54 of the EEA Agreement, it is likely that a potential prohibition of Meta’s conduct by means of a final decision would be ineffective, as such decision would be unable to reverse the competitive harm that would likely have materialised in the interim period (see Section 8 above).
- (481) On the other hand, the Commission considers that the interim measures do not impose an undue burden on Meta.
- (482) First, the interim measures merely re-establish the previous status quo by allowing third party general purpose AI assistants to access the WhatsApp for Business API the same way than before the Policy Change of 15 October 2025, replaced by the Revised Policy Change of 4 March 2026.
- (483) The measure on the possibility given to banned AI services to send a WhatsApp message to inform their past users of their renewed inclusion in WhatsApp on the same terms than before the Policy Change of 15 October 2025, which was replaced by the Revised Policy Change of 4 March 2026, is limited to the minimum necessary to ensure that users are kept accurately informed of the choice of AI services available to them on WhatsApp.
- (484) Second, the Commission concludes that maintaining access of general purpose AI assistants to the WhatsApp for Business API without a fee, in the interim period pending a final decision in the main proceedings by the Commission, does not amount to an undue burden on Meta.
- (485) Firstly, (re-)qualifying the messages of general purpose AI assistants as “service messages” and thus offering them for free is merely to return to the status quo before the Policy Change of 15 October 2025, which was replaced by the Revised Policy Change of 4 March 2026.
- (486) Indeed, according to Meta’s own explanation on message categories, messages generated by users to prompt general purpose AI assistants fall into the category of “service messages” rather than “marketing messages”. As Meta explained, “marketing messages” are initiated by businesses and are “*all based on preset templates*.”⁴⁵⁴ To the contrary, “service messages” are “*initiated when a user messages the business*”⁴⁵⁵ and “*are not based on a predefined template*.”⁴⁵⁶ Furthermore, the monetisation value of the messages falling into the two distinct categories differ significantly: while [...] ⁴⁵⁷
⁴⁵⁸
- (487) Secondly, charging for user-initiated messages does not seem to be the industry

⁴⁵³ See Case C-76/89 *RTE v Commission*, EU:C:1989:192, paragraph 15 and Case C-149/95 P(R) *Commission v Atlantic Container Line and Others*, EU:C:1995:257, paragraph 50.

⁴⁵⁴ Meta’s submission to the Commission of 15 December 2025, paragraph 2.1 (ID25).

⁴⁵⁵ Meta’s submission to the Commission of 15 December 2025, paragraph 2.3 (ID25).

⁴⁵⁶ Meta’s submission to the Commission of 15 December 2025, paragraph 2.1 (ID25).

⁴⁵⁷ Minutes of a call with [...] of 9 March 2026, paragraph 4 (ID538-1).

⁴⁵⁸ [...] similarly submitted that [...] (Minutes of a call with [...] of 10 March 2026, paragraph 2 (ID588)).

standard. No consumer communications application – including WhatsApp – charges private users to send (private) messages. Moreover, no other consumer communications application charges to send AI-generated messages.[...] submitted [...] ⁴⁵⁹ [...] confirmed that [...] ⁴⁶⁰

- (488) Thirdly, the Revised Policy Change is discriminatory in that it introduces a fee only *vis-à-vis* third party general purpose AI assistants when replying to a user-initiated message. Indeed, other businesses – including businesses using ancillary AI assistants – can continue to respond to user-initiated messages for free (under the category of “service messages”), and [...]. Meta also confirmed that its [...]. ⁴⁶¹
- (489) Fourthly, and as explained in Section 7.5.2.4.2 above, Meta did not put forward any evidence relating to the costs associated to the use of the WhatsApp for Business API by third party general purpose AI assistants, therefore – in the interim – such access should be maintained for free.
- (490) Finally, the envisaged interim measures reintroducing the status quo of before the Policy Change, which was replaced by the Revised Policy Change, are to be applied for a specific period of time – until the Commission adopts a final decision on the merits in this case – and therefore are only of temporary nature. If the Commission were to find that Meta’s conduct does not infringe Article 102 TFEU and Article 54 of the EEA Agreement, the change of WhatsApp Business Terms of Service adopted on 15 October 2025 and modified on 4 March 2026 could be reinstated.
- (491) The Commission’s conclusion above is not refuted by Meta’s arguments.
- (492) First, Meta claims that as of 6 March 2026, general purpose AI assistants have been able to deliver their chatbot services using the WhatsApp for Business API to users in the EEA and were merely required to pay a reasonable fee for doing so. ⁴⁶²
- (493) Contrary to what Meta claims, recital (235) above concludes that the Meta’s Revised Policy Change, consisting in charging a fee for access is *prima facie* equivalent to the prior refusal to provide access to the WhatsApp for Business API altogether. The Revised Policy Change therefore does not obviate the need to adopt interim measures to avoid the risk of serious and irreparable damage to competition.
- (494) Second, Meta claims that the interim measures would require Meta to support free delivery of general purpose AI assistants on the WhatsApp for Business API and its indefinite nature would place a heavy burden on Meta’s infrastructure by forcing it to support a new use case for which the WhatsApp for Business API was not designed. ⁴⁶³
- (495) Firstly, contrary to Meta’s claim, the interim measures are temporary. Therefore, they do not create a burden of an indefinite nature.
- (496) Secondly, Meta’s claim that the interim measures place a heavy burden on Meta’s infrastructure by forcing it to support a new use case for which the WhatsApp for Business API was not designed is essentially the same argument as Meta’s alleged objective justification for its practices. This is already analysed in recitals (339) to (346), which show that supplying general purpose AI assistants access to WhatsApp via the WhatsApp for Business API does not produce any heavy burden on Meta’s infrastructure, all the more as this supply is only on a temporary basis. In addition, until the Policy Change, Meta had chosen to open the WhatsApp for Business API to third-

⁴⁵⁹ [...] submission to the Commission of 12 March 2026, paragraph 95 (ID510-1).

⁴⁶⁰ [...] submission to the Commission of 12 March 2026, page 1 (ID574-1).

⁴⁶¹ Meta’s reply to question 7 of the Commission’s request for information of 13 March 2026 (ID490-5).

⁴⁶² SSO Response, paragraph 7.2 (ID609).

⁴⁶³ SSO Response, paragraph 7.4 (ID609).

party general purpose AI assistants (with free service message category from November 2024 until the Policy Change), therefore the interim measures would not force Meta to support a “new use case”.

- (497) Third, Meta claims that it is irrelevant whether charging for user-initiated messages is the “industry standard”. What is relevant is that Meta had never committed to enable delivery of general purpose AI assistants via the WhatsApp for Business API, far less to do so without charging a fee for such usage. Meta claims that the use of the free service message category to deliver chatbot services was an unforeseen anomaly, a loophole arising from a commercial decision to stimulate paid messaging volumes among business users of paid message categories. The obligation imposed by the interim measures would convert a temporary and unintended anomaly into a legally enforceable right to indefinite free access.⁴⁶⁴
- (498) Firstly, contrary to Meta’s claim, the interim measures do not create any right to indefinite free access. The proposed interim measures are temporary in nature.
- (499) Secondly, for the purpose of analysing the proportionality of interim measures imposing on Meta to supply general purpose AI assistants with access to the WhatsApp for Business API for free, it is relevant to assess whether charging user- initiated messages is the industry standard. Indeed, the fact that the imposed interim measures are consistent with industry standards gives a strong indication that they do not impose a disproportionate burden.
- (500) Thirdly, in any event, the very premise of Meta’s reasoning is inaccurate. As already shown in recitals (189) to (192), the presence of AI assistants on WhatsApp was not a “loophole”. Rather, it was a conscious decision by Meta.
- (501) Fourthly, it is irrelevant that Meta had never committed to enable delivery of general purpose AI assistants via the WhatsApp for Business API. What matters is not whether Meta committed to enable such delivery, but instead that it actually did enable it, knowingly. The fact that Meta enabled delivery of several AI assistants, some of which widely known to the public (recitals (183), (187) to (191)), without any reservations until the Policy Change, also reinforced the expectation that Meta would continue to do so as it did for all other customers of the WhatsApp for Business API.
- (502) Fourth, Meta claims that the proposed interim measures would cause significant “disadvantage[s]” to Meta by irreversibly harming the WhatsApp for Business API infrastructure and business model.
- (503) Meta argues that requiring the WhatsApp for Business API to deliver general purpose AI assistants’ services for free implies that Meta will forego the revenues that the WhatsApp for Business API is entitled to generate for that usage. Meta claims that it would therefore suffer irrevocable financial loss regardless of the outcome of this case. It claims that even if the Revised Policy Change is subsequently confirmed to be legitimate and lawful, there is no mechanism for Meta to recover the material fees it has foregone. In contrast, if Meta’s conduct is confirmed to infringe competition law, Meta claims that third parties will have recourse to recover any financial loss from Meta via civil damages actions.
- (504) Meta also argues that continued support of general purpose AI assistants requires it either to: deliver the AI assistant services on current infrastructure which is not designed for this purpose, leading to continued outages and a poor user experience; or fundamentally re-engineer the WhatsApp for Business API to accommodate the bespoke needs of general purpose AI assistants, incurring significant and irrecoverable

⁴⁶⁴ SSO Response, paragraphs 7.5 and 7.6 (ID609).

investment.⁴⁶⁵

- (505) These arguments fail to undermine the Commission’s position for the following reasons.
- (506) Firstly, Meta’s claim that it would suffer irrevocable financial loss is unsubstantiated and flawed. Such hypothetical loss is to be considered within the context of the balance between the public interest of maintaining effective competition and the rights of the undertaking under investigation, and cannot prevail over the need to avoid irreparable damage to competition. In addition, Meta appears to accept that, should its conduct be confirmed to be unlawful following the investigation in the main proceedings, the financial consequences of the interim measures would be a normal consequence of its unlawful actions.
- (507) Secondly, Meta’s reference to the fact that third parties will have recourse to civil damages actions to recover from Meta any financial loss is based on the flawed assumption that repairing financial losses of competitors would repair the harm to competition. This confuses protecting competition with protecting competitors. Financial reparations for third parties would not undo the harm to the competitive process that would result from innovators having lost the opportunity to challenge large digital incumbents, as outlined in section 8.2.2.
- (508) Thirdly, Meta’s reasoning is based on the premise that Meta is “entitled” to the revenues it charges general purpose AI assistants under the Revised Policy Change. However, this is precisely what those proceedings are seeking to determine, and what appears to be *prima facie* unlawful. Proceedings under competition law cannot start from the assumption that undertakings are entitled to the proceeds of the practices that are under investigation and that any departure from that benchmark should be considered as a financial loss.
- (509) Fourthly, as already set out in recitals (332) to (346), Meta’s claim that continuing to supply, on a temporary basis, general purpose AI assistants with access to the WhatsApp for Business API would lead to continued outages and a poor user experience is not based on credible evidence. Recital (343) also shows that Meta has not substantiated its claim that it would need additional investments (on top of any investments already planned) to allow such access. Further, Meta’s allegations are contradicted by the fact that, before the Policy Change, it did supply general purpose AI assistants access to the WhatsApp for Business API for free without having to change its business model.
- (510) Fifth, Meta claims that the interim measures are more onerous than what is required to protect competition. Following the Revised Policy Change, general purpose AI assistants are once again able to use the WhatsApp for Business API to deliver their services. The interim measures nevertheless now impose that Meta cannot apply any fee for this use case, which goes beyond the least onerous alternative. Meta claims that, in the SO, the Commission’s own analysis recognises that charging for platform access would be reasonable.⁴⁶⁶ According to Meta, the Commission needs to show not only that the fees under the Revised Policy Change are unreasonable – but also that any fee above zero would make it impossible for general purpose AI assistants to use the WhatsApp for Business API.⁴⁶⁷ Finally, Meta also claims that the Commission failed to consider different interim measures that would permit usage of the WhatsApp for Business API at some lower fee for smaller firms, while continuing to apply the fees as

⁴⁶⁵ SSO Response, paragraph 7.7 (ID609)

⁴⁶⁶ SSO Response, paragraph 7.8 (ID609).

⁴⁶⁷ SSO Response, paragraph 7.9 (ID609).

provided by the Revised Policy Change for large and well-capitalised players.⁴⁶⁸

- (511) Firstly, as explained already above in recital (493), it is not correct that following the Revised Policy Change, the AI assistants would be able to use the WhatsApp for Business API to deliver their services, since the fee charged under the Revised Policy Change is *prima facie* equivalent to the prior refusal to provide access to the WhatsApp for Business API altogether.
- (512) Secondly, there is no contradiction between the SO and this Decision. In the SO, the Commission noted that “*if the alleged significant increase in messaging volume would really constitute a strain on WhatsApp system, this could be addressed not by the radical exclusion from the platform but by fair, proportionate and non-discriminatory means, such as a contribution to share infrastructure costs, having regard to the actual cost of infrastructure development while also allowing Meta to derive an appropriate benefit*”. This Decision concludes that the fee charged in the Revised Policy Change is not fair, proportionate, or non-discriminatory. It is *prima facie* equivalent to a refusal to provide access – and, therefore, *prima facie* equivalent to the outright exclusion the SO took issue with.
- (513) Thirdly, the purpose of an interim measures is to guard, on a temporary basis, against the risk of serious and irreparable harm to competition. The question whether charging a fee is appropriate, beyond that temporary period, and if so, the level of that fee and the categories of undertakings that would have to pay it, over the long term, is a matter for the investigation in the main proceedings.
- (514) Fourthly, this Decision does not need to show that applying any possible fee or fee structure would *prima facie* be an abuse. It is sufficient for the Decision to show that the fee structure effectively imposed by Meta is *prima facie* unlawful. The purpose of the interim measure procedure is to guard against the risk of serious and irreparable harm to competition. If the Commission were to be required to analyse during an interim measures procedure not only the concrete practice of the dominant company, but also any potential alternative practice, it would render interim measure procedures ineffective. This is all the more important in the present case as the question whether a fee can be charged without foreclosing competition, and if so at which level, is as the core of the investigation.
- (515) Sixth, Meta claims that the Revised Policy Change is not discriminatory. According to Meta, the proposed interim measures are the ones that are discriminatory as they would create a two-tier system in which the most intensive users of the WhatsApp for Business API (such as OpenAI and Microsoft) would pay nothing, while its ordinary customers would subsidise them.⁴⁶⁹
- (516) Firstly, as explained in recital (488), the Revised Policy Change is discriminatory in that it introduces a fee only *vis-à-vis* third party general purpose AI assistants replying to a user-initiated service message. Indeed, other businesses can continue to respond to user-initiated service messages for free. This includes in particular other businesses which provide AI assistant services, but in a manner that Meta deems to be ancillary to their main activity, as well as Meta’s own general purpose AI assistant, Meta AI.
- (517) Secondly, the “ordinary” customers, which Meta does not define but which appear to include customers which provide AI assistant services, but in a manner that Meta deems to be ancillary to their main activity, would not subsidise OpenAI and Microsoft. Both customer categories would not be charged for the user-initiated service messages. As

⁴⁶⁸ SSO Response, paragraph 7.10 (ID609)

⁴⁶⁹ SSO Response, paragraph 7.12 (ID609)

concerns other messages, such as for instance Marketing messages, both customer categories would be treated the same as they would be both charged the same fee. If one is to follow Meta's reasoning, under the Revised Policy Change, all customers of the WhatsApp for Business API, whether "ordinary" or not, would be the ones subsidising Meta's general purpose AI assistant, Meta AI.

11. PERIODIC PENALTY PAYMENTS

11.1. Principles

(518) Pursuant to Article 24(1)(b) of Regulation No 1/2003 and Article 5 of Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ("Regulation No 2894/94"),⁴⁷⁰ the Commission may, by decision, impose on undertakings or associations of undertakings periodic penalty payments not exceeding 5% of the average daily turnover in the preceding business year per day and calculated from the day specified in the decision, in order to compel them to comply with a decision ordering interim measures taken pursuant to Article 8 of Regulation No 1/2003.

11.2. Application to this case

(519) The Commission concludes that it is necessary to impose periodic penalty payments pursuant to Article 24(1)(b) of Regulation No 1/2003 and Article 5 of Regulation No 2894/94 if Meta were to fail to comply with the measure set out in Articles 2 to 5 of this Decision.

(520) In setting the level of the periodic penalty payments, the Commission takes into account the need to impose periodic penalty payments sufficient to ensure compliance by Meta with this decision. The Commission also takes into account the need to set periodic penalty payments that are sufficient to ensure compliance by other undertakings of a similar size and with similar financial resources, as well as the fact that in this case periodic penalty payments would be imposed on the basis of a *prima facie* finding of an infringement.

(521) Consequently, if it fails to comply with any of the obligations imposed by Articles 2 to 5 of this Decision, Meta shall incur a periodic penalty of up to 5% of Meta's average daily turnover in the business year preceding such failure to comply for each day in which it is in breach.

12. CONCLUSION

(522) In light of the above considerations regarding the presence of a *prima facie* finding that Meta infringed Article 102 TFEU and Article 54 of the EEA Agreement, the urgent need to avoid serious and irreparable harm to competition (and to provide certainty for market participants with regard to the availability of the WhatsApp for Business API as an entry point to the market), and the balance of interests that lies in favour of the public interest of maintaining effective competition at a critical time for a nascent and fast-evolving market which is likely to have a systematic impact on other sectors of the internal market economy, the Commission considers it necessary to impose interim measures on Meta pursuant to Article 8(1) of Regulation No 1/2003, in the terms set out in Articles 2 to 5 of this Decision.

HAS ADOPTED THIS DECISION:

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OJ L 305, 30.11.1994, pages 6–8.

Article 1

Through the practices described in this decision, Meta is *prima facie* infringing Article 102 of the Treaty on the Functioning of the European Union and Article 54 of the EEA Agreement.

Article 2

Meta shall re-instate access for third party general purpose AI assistants to the WhatsApp for Business API under the same terms and conditions that were in place before the Policy Change of 15 October 2025, and maintain access on those terms and conditions until the interim measures elapse.

Article 3

Meta shall allow third party general purpose AI providers that had to send to their users the WhatsApp message related to the discontinuation of their inclusion in WhatsApp to send to their users a WhatsApp message informing users of their renewed inclusion on WhatsApp.

Article 4

Meta shall refrain from repeating any same act or conduct or any act or conduct having the same or equivalent object or effect as the one covered by Article 1 and shall refrain from implementing punishing or retaliatory practices having an equivalent object or effect.

Article 5

Meta shall have 5 working days from the date of notification of this Decision to implement the measures set out in Articles 2 and 3. Meta shall have 10 working days from the date of notification of this Decision to inform the Commission of the measures it has put in place to ensure compliance with the Decision, with such notification to be accompanied by supporting documentation. The interim measures will apply for (i) a time period of three years as from the date on which Meta informs the Commission in accordance with this Article of the measures that it has adopted pursuant to Articles 2 and 3 or (ii) until the date of adoption of a final decision on the substance of Meta's conduct covered by this decision or the closure of the Commission's investigation concerning that conduct, should either of these events occur prior to the end of the aforementioned three-year period.

Article 6

Should Meta fail to comply with any of the orders set out in Articles 2 to 5 above, it shall incur a periodic penalty of up to 5% of its average daily turnover in the business year preceding such a failure to comply for each day in which it is in breach.

Article 7

This decision is addressed to Meta Platforms, Inc., 1 Meta Way, Building 18, Menlo Park, CA 94025, United States.

Done at Brussels, 9.6.2026

For the Commission

Teresa RIBERA
Executive Vice-President