



EUROPEAN COMMISSION

***CASE DMA.100097***  
***Meta – Number Independent***  
***Interpersonal Communication***  
***Services - Messenger -***  
***Art. 7(1)***

(Only the English text is authentic)

**Digital Markets Act**  
**Regulation (EU) 2022/1925 of the European Parliament**  
**and of the Council**

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Article 7(6) Regulation (EU) 2022/1925

Date: 25/03/2024

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Brussels, 25.3.2024  
C(2024) 1937 final

**PUBLIC VERSION**

**COMMISSION DECISION**

**of 25.3.2024**

**concerning an extension of the time limits for Meta to comply with certain obligations pursuant to Article 7(6) of Regulation (EU) 2022/1925 of the European Parliament and of the Council on contestable and fair markets in the digital sector in relation to its number-independent interpersonal communication service Messenger**

**DMA.100097 Meta - Number-Independent Interpersonal Communication Services - Messenger - Art. 7(1)**

(Only the English text is authentic)

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# COMMISSION DECISION

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**DMA.100097 Meta - Number-Independent Interpersonal Communication Services - Messenger - Art. 7(1)**

(Only the English text is authentic)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act)<sup>1</sup>, in particular Article 7(6) thereof,

Whereas:

## 1. INTRODUCTION

- (1) On 5 September 2023, the Commission adopted a decision designating Meta Platforms, Inc. together with all legal entities directly or indirectly controlled by Meta Platforms, Inc. (hereinafter collectively referred to as “Meta”) as a gatekeeper pursuant to Article 3 of Regulation (EU) 2022/1925 (hereinafter referred to as the “Designation Decision”).<sup>2</sup> In that decision, the Commission listed, among others, Meta’s number-independent interpersonal communications services (“NIICSs”) WhatsApp and Messenger as core platform services (“CPSs”) constituting important gateways for business users to reach end users within the meaning of Article 3(1)(b) of Regulation (EU) 2022/1925.
- (2) On 8 January 2024, Meta submitted, pursuant to Article 7(6) of Regulation (EU) 2022/1925, a request for the extension by six months of the time limits to comply with the obligations in Articles 7(2)(a) and 7(5) of that Regulation with respect to its NIICS CPS Messenger (hereinafter referred to as the “Extension Request”).

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<sup>1</sup> OJ L 265, 12.10.2022, p. 1.

<sup>2</sup> Decision C(2023) 6105 final.

## **2. THE UNDERTAKING**

- (3) Meta operates, among others, social networking services and messaging services. Meta's parent company is Meta Platforms, Inc., a publicly traded company founded in 2004 headquartered in Menlo Park, California, United States of America.<sup>3</sup> Meta Platforms Ireland Limited and WhatsApp Ireland Limited are Meta subsidiaries based in Ireland that operate the designated CPSs in the Union.

## **3. PROCEDURE**

- (4) On 8 January 2024, Meta submitted to the Commission the Extension Request.
- (5) On 25 January 2024, the Commission sent Meta a first request for information ("RFI 1") pursuant to Article 21 of Regulation (EU) 2022/1925, to which Meta replied in full on 30 January 2024.
- (6) On 6 February 2024, the Commission sent Meta a second RFI ("RFI 2"), to which Meta replied in full on 15 February 2024.

## **4. LEGAL FRAMEWORK**

- (7) Article 7(1) of Regulation (EU) 2022/1925 requires the gatekeeper providing a NIICS CPS that is listed pursuant to Article 3(9) of that Regulation in its designation decision to make the basic functionalities of its NIICS interoperable with the NIICS of another provider offering or intending to offer such service in the Union, by providing the necessary technical interfaces or similar solutions that facilitate interoperability, upon request and free of charge.
- (8) Article 7(2) of Regulation (EU) 2022/1925 provides that the gatekeepers shall make certain basic functionalities interoperable where the gatekeeper itself provides such functionalities to its own end users. In particular, Article 7(2)(a) establishes that the gatekeeper, following the listing of its NIICS CPS in the designation decision pursuant to Article 3(9) of that Regulation, must provide interoperability for end-to-end text messaging between two individual end users, including the sharing of images, voice messages, videos and other attached files.
- (9) Article 7(3) of Regulation (EU) 2022/1925 requires that the level of security, including the end-to-end encryption ("E2EE"), where applicable, that the gatekeeper provides to its own end users shall be preserved across the interoperable services.
- (10) Article 7(4) of Regulation (EU) 2022/1925 requires the gatekeeper to publish a reference offer laying down the technical details and general terms and conditions of interoperability with its NIICS CPS within the period laid down in Article 3(10) of that Regulation and update it where necessary.
- (11) Article 7(5) of Regulation (EU) 2022/1925 provides that, following the publication of the reference offer pursuant to Article 7(4), any provider of NIICS offering or intending to offer such services in the Union may request interoperability with the NIICS CPS provided by the gatekeeper, which shall comply with any reasonable request for interoperability within three months after receiving that request, by rendering the requested basic functionalities operational.

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<sup>3</sup> Meta's notification pursuant to Article 3 of Regulation (EU) 2022/1925, Form for Gatekeeper Designation (GD), notified on 3 July 2023 ("Form GD"), paragraph 7.

- (12) Article 7(6) of Regulation (EU) 2022/1925 provides that the Commission may, exceptionally, upon a reasoned request by the gatekeeper, extend the time limits for compliance under Articles 7(2) and (5) of that Regulation where the gatekeeper demonstrates that this is necessary to ensure effective interoperability and to maintain the necessary level of security, including E2EE, where applicable.

## **5. THE EXTENSION REQUEST**

### **5.1. The Undertaking's view**

- (13) In its Extension Request, Meta seeks to extend the time limits for compliance with Articles 7(2)(a) and 7(5) of Regulation (EU) 2022/1925 by six months. Meta indicates that such an extension would imply that it makes the functionalities listed in Article 7(2)(a) interoperable and that it therefore publishes the reference offer referred to in Article 7(4) of that Regulation in relation to its NIICS CPS Messenger by 7 September 2024.<sup>4</sup> Consequently, as Article 7(5) of Regulation (EU) 2022/1925 states, third-party providers of NIICS may request interoperability with Messenger following the publication of the reference offer by that date, and Meta would need to comply within 3 months after receiving a reasonable request.
- (14) In support of the Extension Request, Meta puts forward the following main arguments, as further elaborated upon in its replies to RFI 1 and RFI 2.
- (15) In the first place, since Regulation (EU) 2022/1925 came into force and during the period preceding the designation of gatekeepers, Meta argued that Messenger should not be designated as a separate NIICS CPS distinct from its online social network CPS Facebook. As a result, Meta argues that it had, in comparison with its NIICS CPS WhatsApp whose designation was not disputed by Meta, a much shorter timeframe in which to build, test and launch any interoperability solution ahead of the deadline for compliance imposed by Article 7(2)(a) of that Regulation (i.e., 7 March 2024).<sup>5</sup> Meta adds that it has taken nearly 18 months to develop an interoperability solution for WhatsApp to be ready as of 7 of March 2024.<sup>6</sup>
- (16) In the second place, Meta submits that, in addition to complying with the obligations laid down in Article 7 of Regulation (EU) 2022/1925, it must ensure compliance with other legislation relevant to NIICS, such as the General Data Protection Regulation (GDPR),<sup>7</sup> the European Electronic Communications Code (EECC),<sup>8</sup> and the ePrivacy Directive (ePD),<sup>9</sup> which relate to the confidentiality of communications and the overall security of communication services.<sup>10</sup>

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<sup>4</sup> Extension Request, paragraphs 1 and 34.

<sup>5</sup> Extension Request, paragraph 4.

<sup>6</sup> Ibid.

<sup>7</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

<sup>8</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

<sup>9</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002, p. 37).

<sup>10</sup> Extension Request, paragraphs 9-12; RFI 1, paragraph 5.

- (17) In the third place, Meta points to the technical intricacies involved in ensuring interoperability with Messenger, which require substantial server and client<sup>11</sup> modifications. According to Meta, such modifications are particularly demanding and time-consuming, calling for a significant allocation of engineering resources to maintain the anticipated level of security and user experience.<sup>12</sup> In support of this, Meta puts forward a number of arguments.
- (18) First, Meta argues that there is a need to work on a mapping translation method, as well as on message routing to enable users of third party NIICS, and their messages, to reach Messenger users.<sup>13</sup> According to Meta, this is a particularly complex issue in the case of Messenger given that [...]. Meta indicates that the interoperability solution for Messenger must account for the [complexities of the Messenger technical infrastructure].<sup>14</sup>
- (19) Second, Meta argues that, on the server side, work is needed to enable connection to third-party clients and services for a number of purposes, such as allowing for user verification, media storage and media downloading from third-party messaging servers using a proxy service or sending push notifications.<sup>15</sup>
- (20) Third, regarding client-side complexities, Meta estimates that the work on end user-facing features requires significant technical engineering and multiple rounds of testing.<sup>16</sup>
- (21) Fourth, Meta points to integrity measures that it needs to implement to prevent misuse and to the necessity for conducting tests and “dogfooding” exercises, which typically run for three months, to report and solve bugs.<sup>17</sup>
- (22) Fifth, given [the technical infrastructure<sup>18</sup> that Messenger is built on,<sup>19</sup> Meta needs to conduct extensive work]<sup>20</sup> to enable the provision of an E2EE interoperability service by Messenger. These activities include, among others, initiating the registration of third-party NIICS users with a Messenger user, validating and verifying the existence of the user and that it is not banned, handling E2EE keys and metadata signals together with hosting third-party data strictly necessary to provide the service, routing messages, acknowledging that messages were sent, or product support service.<sup>21</sup>
- (23) Sixth, Meta argues that it requires to conduct work regarding issues such as the registration of third-party NIICS users upon first contact with a Messenger user, hosting third-party data and handling encryption keys, or [other work to facilitate] interaction with the WhatsApp server.<sup>22</sup>

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<sup>11</sup> According to Meta, “client” refers to the end user’s device (Extension Request, footnote 1).

<sup>12</sup> Extension Request, paragraph 14.

<sup>13</sup> Extension Request, paragraph 14.1.1.

<sup>14</sup> Ibid.

<sup>15</sup> Extension Request, paragraph 14.1.2.

<sup>16</sup> Extension Request, paragraph 14.2.1.

<sup>17</sup> Extension Request, paragraphs 14.2.2 and 14.2.3.

<sup>18</sup> According to Meta, [...] (RFI 1, paragraph 11; RFI 2, paragraph 11).

<sup>19</sup> RFI 1, paragraph 12.

<sup>20</sup> Ibid; RFI 2, paragraphs 4-15.

<sup>21</sup> RFI 1, paragraph 9.

<sup>22</sup> RFI 2, paragraph 9.

- (24) Seventh, Meta points to the need for creating a brand-new first-party username/identifier system for Messenger due to the fact that Messenger currently operates based on usernames tied to Facebook identifiers for its internal systems, and therefore cannot be recognized by third parties as external identifiers. Meta further explains that this technical complexity does not arise in the case of WhatsApp’s interoperability solution, whose identifiers take the form of telephone numbers.<sup>23</sup>
- (25) In the fourth place, Meta argues that providing interoperability for Messenger is further complicated by ensuring compliance with Article 5(2) of Regulation (EU) 2022/1925. In this regard, Meta considers that compliance would be achieved by introducing a restructured Messenger experience independent of the online social network Facebook. Such a dual development strategy, aimed at offering both a traditional and new ‘Messenger without Facebook’ user experience, in Meta’s view, introduces additional technical challenges and potential security risks. Meta argues that the simultaneous development of these distinct user experiences, alongside the demands of compliance with Article 5(2) of Regulation (EU) 2022/1925, will significantly strain its resources.<sup>24</sup>
- (26) Meta further argues that the development of interoperability, and the adaptation implemented as part of Meta’s compliance with Article 5(2), require the implementation of different solutions for server-side storage and account management, which adds to overall intricacies and in essence doubles the workload. Moreover, the engineering teams need to make changes to the same client side codebase, meaning that working on both projects in parallel is not a viable option. Therefore, Meta indicates that even adding more engineering resources would not be able to significantly expedite the process.<sup>25</sup>
- (27) In the fifth place, Meta argues that, rolling out E2EE on Messenger has involved years of work to fundamentally rebuild many aspects of the application’s protocols to improve privacy, security and safety. Meta’s plan to implement E2EE for Messenger was announced in 2019 and has been a complex process.<sup>26</sup> In December 2023, Meta further announced that Messenger would undergo a rollout of E2EE “by default”, which requires the technical redevelopment of numerous features for E2EE compatibility, including changing of network protocol and network handler, database schema and feature codes, rebuilding all encryption and decryption messaging transport paths, and rewriting all the server-centric features to client-centric features. In this context, Meta estimates that the rollout of E2EE by default for Messenger will take at least six months.<sup>27</sup> Meta claims that introducing interoperability with third-party NIICS providers amidst this transition would jeopardise the security and timely implementation of E2EE features in the interoperability solution for Messenger.<sup>28</sup>
- (28) In the sixth place, Meta argues that extending the deadline for compliance with Article 7 of Regulation (EU) 2022/1925 will benefit users, particularly regarding the need to provide an interoperability solution that is as secure as possible to use. Should an extension be granted, Meta would have sufficient time for developing,

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<sup>23</sup> RFI 2, paragraphs 17 and 18.

<sup>24</sup> Extension Request, paragraphs 15-21; RFI 1, paragraph 13, second bullet point; RFI 2, paragraph 13.

<sup>25</sup> Extension Request, paragraph 20.

<sup>26</sup> See <https://engineering.fb.com/2023/12/06/security/building-end-to-end-security-for-messenger/> cited by Meta in the Extension Request, footnote 3.

<sup>27</sup> Extension Request, paragraph 23.

<sup>28</sup> Extension Request, paragraphs 22-25; RFI 1, paragraph 13, third bullet point; RFI 2, paragraphs 21-23.



testing, and debugging a secure solution while Meta completes the rollout of E2EE by default on Messenger.<sup>29</sup>

- (29) In the seventh place, Meta argues that other NIICS providers that may benefit from interoperability with Messenger as per Article 7 of Regulation (EU) 2022/1925 would be impacted only to a limited extent. In this regard, Meta contends that [there would be synergies<sup>30</sup> available to NIICS providers who have already built interoperability with WhatsApp].<sup>31</sup> Meta also clarifies that the technical builds that third-party NIICS would still need to implement, particularly regarding the content format, the registration request URL, and the representation for identifiers, should not result in significant additional workload for third-party NIICS.<sup>32</sup>
- (30) Finally, Meta's Extension Request presents its plans for compliance should the extension be granted by the Commission. In particular, Meta indicates that the user experience design work would be expected by April/May 2024, whereas the server and client infrastructure work, the client UI work and the provision of the mobile apps would take place in July/August 2024. Finally, the publication of the reference offer and the launch of interoperability would take place by 7 September 2024.

## **5.2. The Commission's assessment**

- (31) The Commission observes that Messenger was listed as a NIICS CPS in the Designation Decision. This entails making the basic functionalities listed under Article 7(2)(a) interoperable and the publication by Meta of a reference offer laying down the technical details and general terms and conditions of interoperability for Messenger by 7 March 2024 as required by Articles 3(10) and 7(4) of that Regulation.
- (32) As a preliminary remark, regarding Meta's argument that it had a shorter timeframe to provide interoperability for Messenger than it had for WhatsApp because of Meta's arguments in regard to the delineation of its CPSs prior to the designation decision of 5 September 2023, the Commission observes that such an argument does not have a legitimate basis with respect to the compliance deadline established in Article 3(10) of Regulation (EU) 2022/1925. In this regard, both NIICS CPSs Messenger and WhatsApp were listed in the Designation Decision addressed to Meta on 5 September 2023, affording Meta with legal certainty and an equal opportunity to achieve compliance for both NIICSs within the timeframe provided in Regulation (EU) 2022/1925. The fact that Meta's views stated in its Form GD differed from the Commission's conclusions in the Designation Decision is not a proper justification to request any extension of compliance with Article 7 of Regulation (EU) 2022/1925.
- (33) Notwithstanding the above, the Commission takes the view that other arguments presented by Meta, in light of the information available to the Commission, are sufficient to exceptionally justify an extension for complying with the obligation of

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<sup>29</sup> Extension Request, paragraphs 26-28; RFI 2, paragraph 35, first bullet point.

<sup>30</sup> Extension Request, paragraph 30.

<sup>31</sup> RFI 1, paragraph 19. Meta nonetheless points out that [Meta does not necessarily benefit from synergies by virtue of building interoperability for both of its NIICS CPSs to the same extent as third-party NIICS]. (RFI 1, paragraph 15).

<sup>32</sup> RFI 1, paragraphs 20 and 21. Meta further estimates that the incremental technical effort required to achieve interoperability with Facebook Messenger after successful integration with WhatsApp would take an experienced programmer approximately one additional month per platform (i.e., iOS or Android), and that this number would decrease if additional resources are deployed (RFI 1, paragraph 21).

interoperability with respect to its NIICS CPS Messenger as Meta demonstrates, in the Commission's view, that such an extension is necessary to ensure effective interoperability and to maintain the necessary level of security, including E2EE. The Commission bases its conclusion on the following reasons.

- (34) In the first place, the Commission notes that Messenger's situation is very specific due to the fact that it is currently undergoing significant changes as a result of Meta's multi-year efforts to roll out E2EE, including by default, for Messenger.<sup>33</sup> Messenger, in contrast to Meta's NIICS WhatsApp and to many well-known messaging services, is not currently protected by systematic and by default E2EE. E2EE is considered an industry standard<sup>34</sup> being an important part of the security of most modern messaging services<sup>35</sup> as is exemplified by the fact that the majority of NIICS providers in the EU provide E2EE in their messaging services.<sup>36</sup> Article 7(3) of Regulation (EU) 2022/1925 also reflects this reality and the importance of E2EE by referring to the need for gatekeepers to preserve E2EE where applicable.
- (35) In this regard, the Commission considers that the current rollout of E2EE by default will benefit users and it takes note of the significant complexities that would arise from being required to ensure interoperability while still preparing the rollout of E2EE by default on Messenger. As this endeavour requires the redevelopment of many features for E2EE compatibility, simultaneously introducing interoperability with third-party NIICSs would risk compromising both the security of Messenger and the timely rollout of E2EE. The Commission therefore considers that, in this exceptional case, an extension is necessary to ensure the secure and sequential implementation of E2EE and interoperability while safeguarding user safety and system integrity, in parallel [the development of necessary technical modifications relating to] Messenger's infrastructure.
- (36) Moreover, the extension will also allow Meta to conduct adequately the necessary development, testing, debugging, and refinement of a secure interoperability solution based on a stable E2EE deployment. This approach minimizes potential disruptions and security risks, ensuring a smooth and safe transition for users which equally benefits third-party NIICS providers seeking interoperability with Messenger. Finally, it is also in the interest of third parties that may request interoperability with

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<sup>33</sup> While a limited E2EE option called Secret Conversations was introduced for Messenger in 2016, it is only since 2019 that Meta has sought to bring E2EE to Messenger (see <https://engineering.fb.com/2023/12/06/security/building-end-to-end-security-for-messenger/>, last accessed on 6 March 2024). In 2020, Meta's engineers publicly stated that the E2EE rollout for Messenger was a highly complex project that was likely to take years before being accomplished (see <https://www.wired.com/story/facebook-messenger-end-to-end-encryption-default/>, last accessed on 6 March 2024). The rollout process was publicly reported to move through consecutive stages with the progressive expansion of testing with users taking place in 2022 and 2023 (see <https://www.pcmag.com/news/facebook-expands-messengers-default-end-to-end-encryption-to-more-users>, last accessed on 6 March 2024).

<sup>34</sup> See, for example, the Sector Investigation of the Bundeskartellamt on messenger and video services of May 2023 which concludes that "end-to-end encryption has become established as an industry standard" [own translation] ([https://www.concurrences.com/IMG/pdf/sectoruntersuchung\\_messengervideodienste.pdf?109597/c9c5d2d1c0baa4d2a320e25de3aed314fb108da59e870b4f585f4dd8de107a](https://www.concurrences.com/IMG/pdf/sectoruntersuchung_messengervideodienste.pdf?109597/c9c5d2d1c0baa4d2a320e25de3aed314fb108da59e870b4f585f4dd8de107a), last accessed on 6 March 2024).

<sup>35</sup> See, for instance, Julia Len, Esha Ghosh, Paul Grubbs, Paul Roesler (2023) "Interoperability in end-to-end encrypted messaging", p. 1, available here: <https://eprint.iacr.org/2023/386.pdf> (last accessed 6 March 2024).

<sup>36</sup> As of 6 March 2024, most well-known messaging services in the EU such as WhatsApp, Signal, iMessage, Viber or Threema offer E2EE by default for their messaging services.

Messenger to be presented with a reference offer that is based on a stable deployment of the gatekeeper's service.

- (37) In the second place, the Commission notes that there are a number of technical complexities that arise in the specific context of Messenger due to the circumstances in which the service has been provided so far, making the build of the interoperability for Messenger more demanding from an engineering perspective. This is the case of the complexities enumerated in recitals (18) to (24) above, particularly in regard to the need of conducting specific buildings on mapping translation methods and message routing, [and of additional work] that will make the interoperability solution for Messenger workable, and of the need to solve server-side and client-side complexities to allow for connection of third-party clients and user verification, among others.
- (38) In the third place, the Commission observes that Messenger is also undergoing changes as part of Meta's obligation to comply with Article 5(2) of Regulation (EU) 2022/1925. In particular, Meta indicates that it is working on rolling out interoperability for two different experiences simultaneously: the experience for users who give their consent to the combination of data between Facebook and Messenger, and the experience for users who withhold such consent. Without prejudice to the Commission's assessment of Meta's compliance plan with respect to Article 5(2) or any other provision of Regulation (EU) 2022/1925, the Commission agrees that this circumstance is likely to bring additional complexity to the implementation of interoperability for Messenger and that an extension is necessary to address the technical challenges and potential security risks that arise in this regard. Such a situation is due to the technical specificities of Messenger, which is provided in an integrated way with the online social networking service Facebook, as stated in the Commission's Designation Decision.<sup>37</sup>
- (39) In the fourth place, the Commission also takes note of Meta's argument that granting an extension until 7 September 2024 to provide effective interoperability for Messenger will also allow Meta to build an interoperability solution that will take advantage of the synergies with the interoperability solution for WhatsApp, which is subject to the interoperability obligation under Article 7 of Regulation (EU) 2022/1925 and whose reference offer required by Article 7(4) of the same Regulation has been published by Meta on 6 March 2024.<sup>38</sup> As Meta claims, third-party NIICSs interoperating with WhatsApp will [benefit technically from these synergies].
- (40) The Commission notes, moreover, that such an extension of six months will allow Meta and third parties interoperating with WhatsApp already to test WhatsApp's interoperability solution, whose experience can feed into the implementation of the interoperability solution for Messenger. As indicated in recital (39), this exceptional situation, in which the interoperability for two separate NIICS is offered by the same gatekeeper, allows for minimizing the negative impact of the requested extension on third-party NIICS providers by lowering technological challenges involved in the implementation of the interoperable solution, where only a limited incremental effort from third party NIICS providers is expected should they decide to request interoperability with Messenger after having implemented the interoperability

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<sup>37</sup> Designation Decision, recitals 186, 193 and 231.

<sup>38</sup> See <https://developers.facebook.com/m/messaging-interoperability> (last accessed 14 March 2024).

solution for WhatsApp.<sup>39</sup> The Commission considers that users would also benefit from [other synergies] in terms of reliability and security of the service.

- (41) The Commission considers that the elements provided by Meta demonstrate that the duration of the requested extension (six months) is necessary for Meta to provide interoperability while preserving the integrity and security of the service in light of the very significant changes that Messenger is currently undergoing – including the rollout of E2EE which is expected to be completed during the period covered by the requested extension. The Commission further considers that Meta has sufficiently demonstrated that even increasing the resources allocated to the design and implementation of the interoperability solution for Messenger would not significantly expedite the process.<sup>40</sup> Given the complexity of the E2EE deployment with respect to such a large system as Messenger, which follows a multi-year implementation effort, the requested extension appears to be proportionate. Both users and third-party NIICS providers will be more likely to benefit from interoperability synergies from two separate NIICS under the particular circumstances described above if the extension is granted, facilitating a smoother and more efficient interoperability solution that leverages the insights gained from WhatsApp, for which Meta has published the reference offer on 6 March 2024, to enhance the user experience and operational efficiency with Messenger.
- (42) Finally, the Commission takes note of the plans for compliance proposed by Meta in relation to the development of the interoperability solution for Messenger<sup>41</sup> and will closely monitor its progress. In this regard, the extension of six months for finalising the interoperability solution and publishing the reference offer laying down the technical details and general terms and conditions of interoperability should be made conditional upon an obligation by Meta to report monthly to the Commission of any update and of the progress of ensuring compliance with the new time line with respect to Meta's NIICS CPS Messenger. This is necessary, in particular, given the exceptional nature of the derogation set out in Article 7(6) of Regulation (EU) 2022/1925 and it constitutes a proportionate measure in order to allow the Commission to adequately monitor the progress of implementation of the interoperability solution for Messenger.

## 6. CONCLUSION

- (43) In the light of the above, the Commission concludes that an exceptional extension of six months for Meta to comply with Article 7(1) in conjunction with Article 7(2)(a) of Regulation (EU) 2022/1925 in relation to its NIICS CPS Messenger is justified, since Meta has demonstrated that, in line with Article 7(6) of that Regulation, it is necessary to ensure effective interoperability and to maintain the necessary level of security, including E2EE. Furthermore, in light of Article 7(4) of the same Regulation, the Commission notes that the publication of a reference offer is needed to ensure interoperability with the functionalities referred to in Article 7(2)(a) of that Regulation. Moreover, in accordance with Article 7(5) of that Regulation, interoperability requests from third-party NIICS providers may only be made following the publication of such a reference offer.

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<sup>39</sup> As confirmed by Meta in its response to RFI 1, paragraph 21.

<sup>40</sup> See recital 26 above.

<sup>41</sup> See recital 30 above.

- (44) Therefore, it follows that Meta will be required to make the functionalities listed in Article 7(2)(a) interoperable and publish the reference offer required under Article 7(4) of that Regulation by 7 September 2024 and, pursuant to Article 7(5) of the same Regulation, third-party NIICS providers may request interoperability with Messenger following the publication of the reference offer, with which Meta would need to comply within 3 months after having received any reasonable request.

HAS ADOPTED THIS DECISION:

*Article 1*

The time limit for Meta to comply with Article 7(1) in conjunction with Article 7(2)(a) of Regulation (EU) 2022/1925 in relation to its number-independent interpersonal communication service Messenger is extended until 7 September 2024. As a result, Meta will be required to make the functionalities listed in Article 7(2)(a) of Regulation (EU) 2022/1925 interoperable and publish the reference offer required under Article 7(4) of that Regulation by 7 September 2024.

*Article 2*

The extension set out in Article 1 shall be conditional upon Meta submitting to the Commission, by 7 May, 7 June, 7 July, 7 August, and 7 September 2024, a report concerning the progress made with respect to the development of the interoperability solution for its number-independent interpersonal communication service Messenger, describing in detail the measures it has implemented and those it intends to implement to ensure compliance with its obligations laid down in Article 7(1) in conjunction with Article 7(2)(a) of Regulation (EU) 2022/1925 by 7 September 2024.

*Article 3*

This Decision is addressed to Meta Platforms, Inc., 1601 Willow Road, Menlo Park, California 94025, United States of America.

Done at Brussels, 25.3.2024

*For the Commission*  
*Thierry BRETON*  
*Member of the Commission*