

Competition and Markets Authority

Acquisition by Vodafone Group plc of certain assets of Phones 4U

Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72(2) of the Enterprise Act 2002 (the Act)

Whereas:

- (a) the Competition and Markets Authority (CMA) has reasonable grounds for suspecting that it is or may be the case that Vodafone and the Acquired Phones 4U Assets have ceased to be distinct
- (b) the CMA is considering, pursuant to section 22 of the Act, whether it is or may be the case that a relevant merger situation has been created and whether the creation of that situation has resulted or may be expected to result in a substantial lessening of competition in any market or markets in the United Kingdom (UK)
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under section 22 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference, and
- (d) the circumstances set out in section 72(6) of the Act do not apply and the reference has not been finally determined in accordance with section 79(1) of the Act.

Now for the purposes of preventing pre-emptive action in accordance with section 72(2) of the Act the CMA makes the following order addressed to Vodafone Group plc and Vodafone (Order).

Commencement, application and scope

1. This Order commences on the commencement date: 25 September 2014.
2. This Order applies to Vodafone.
3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige Vodafone to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.

Management of the Vodafone and the Acquired Phones 4U Assets until determination of proceedings

4. Subject to paragraph 3, Vodafone shall at all times during the specified period procure that, except with the prior written consent of the CMA:
 - (a) except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the leasehold assets of the Acquired Phones 4U Assets are maintained and preserved, including facilities
 - (ii) none of the assets of the Vodafone business or the Acquired Phones 4U Assets are disposed of, and
 - (iii) no interest in the Acquired Phones 4U Assets or the Vodafone business is created or disposed of
 - (b) no changes are made to key staff of the Acquired Phones 4U Assets or Vodafone business
 - (c) no key staff are transferred between the Acquired Phones 4U Assets and the Vodafone business, and
 - (d) all reasonable steps are taken to encourage all key staff to remain with the Acquired Phones 4U Assets and the Vodafone business.

Compliance

5. Vodafone shall procure that each of its subsidiaries complies with this Order as if the Order had been issued to each of them.
6. Vodafone shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Vodafone and Vodafone's subsidiaries with this Order. In

particular, on 9 October 2014 and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officer of Vodafone or other persons of Vodafone as agreed with the CMA shall, on behalf of Vodafone, provide a statement to the CMA in the form set out in the Annex to this Order confirming compliance with this Order.

At all times, Vodafone shall actively keep the CMA informed of any material developments relating to the Acquired Phones 4U Assets or the Vodafone business, which includes but is not limited to details of key staff who leave or join the Acquired Phones 4U Assets or the Vodafone business.

7. If Vodafone has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that Vodafone may be directed to appoint under paragraph 8.
8. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke any directions so given.
9. Vodafone shall comply in so far as it is able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.

Interpretation

10. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.
11. For the purposes of this Order:

'the Act' means the Enterprise Act 2002

'an affiliate' of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act

'business' has the meaning given by section 129(1) and (3) of the Act

'commencement date' means 25 September 2014

'control' includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise

'the decisions' means the decisions of the CMA on the questions which it is required to answer by virtue of section 35 of the Act

'key staff' means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business.

'the ordinary course of business' means matters connected to the day-to-day supply of goods and/or services by the Acquired Phones 4U Assets or Vodafone and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of the Acquired Phones 4U Assets and Vodafone or Vodafone Group plc

'Phones 4U' means Phones 4U Limited (Company number 03154198) and Policy Administration Services Limited (Company number 03907386).

'the Acquired Phones 4U Assets' means the relevant assets of Phones 4U Limited and Policy Administration Services Limited and their subsidiaries that were acquired by Vodafone pursuant to an Asset Sale Agreement dated 19 September 2014, and

'specified period' means the period beginning on the commencement date and terminating in accordance with section 72(6) of the Act

'subsidiary', unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006

'the transaction' means the transaction by which Vodafone Group plc and the Acquired Phones 4U Assets have ceased to be distinct within the meaning of section 23 of the Act

'Vodafone' means Vodafone Limited (Company number 01471587)

'the Vodafone business' means the retail business of Vodafone and its subsidiaries carried on as at the commencement date

unless the context requires otherwise, the singular shall include the plural and vice versa.

Timothy Geer
Assistant Director, Mergers

ANNEX

Compliance statement for Vodafone

I [insert name] confirm on behalf of Vodafone that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) Vodafone has complied with the Order made by the CMA in relation to the transaction on 25 September 2014 (the Order).
 - (b) Vodafone subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by Vodafone that might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
 - (i) transfer the ownership or control of the Vodafone business or the Acquired Phones 4U Assets or any of their subsidiaries, or
 - (ii) otherwise impair the ability of the Acquired Phones 4U Assets or the Vodafone business to compete independently in any of the markets affected by the transaction.
 - (b) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) none of the leasehold assets of the Acquired Phones 4U Assets or the Vodafone business have been disposed of, and
 - (ii) no interest in the Acquired Phones 4U Assets or the Vodafone business has been created or disposed of.
 - (c) No changes have been made to key staff of the Acquired Phones 4U Assets or the Vodafone business.
 - (d) No key staff have been transferred between the Acquired Phones 4U Assets and Vodafone or the Vodafone business.

- (e) All reasonable steps have been taken to encourage all key staff to remain with the Acquired Phones 4U Assets and the Vodafone business.
- (f) There have been no key staff that have left or joined the Acquired Phones 4U Assets or the Vodafone business

3. Vodafone and its subsidiaries remain in full compliance with the Order.

Interpretation

4. Terms defined in the Order have the same meaning in this compliance statement.

FOR AND ON BEHALF OF VODAFONE

Signature

Name

Title

Date