



**SUBMISSION TO THE CMA FROM SSE PLC REGARDING THE
PROVISIONAL FINDINGS REPORT ON THE BT-EE MERGER INQUIRY**

November 2015

Introduction

SSE continues to be concerned about the potential effects of the proposed BT-EE merger on the competitive dynamic in retail markets. In agreement with two of the inquiry members, we expect the retail markets to develop towards fixed-mobile bundles and urge the CMA to reconsider the effect of this on the sector of smaller fixed-line retailers who cannot readily access wholesale mobile products in the absence of regulatory remedies.

Comment

Our principal concern relates to the wholesale mobile market, where we expect fixed-mobile bundles to become more commonplace if the merger is allowed to proceed. [...]

The provisional findings report considers the effect of the proposed merger on the competitive position in a number of distinct markets. We note that, in the case of the wholesale mobile market, the inquiry group is evenly divided on whether the proposed merger would be likely to give rise to an SLC. At paragraph 14.278 of the report, the members who thought that an SLC was, in fact, likely, were noted to hold the views that *“fixed-mobile bundles were likely to become increasingly prevalent”* and that *“the merged entity would not wish to assist major competitors by giving them access to high-quality mobile service and thereby extinguishing any competitive advantage”* from the merger. These comments have a high degree of overlap with SSE’s continuing concerns noted above. [...]

Given that the inquiry group is so finely balanced on this area of potential harm, we urge the CMA to reconsider its lack of a SLC finding, taking into account the comments from those operating in or representing the sector of smaller fixed line CPs. In any event, given that the lack of a formal SLC finding is dependent on a necessarily uncertain assessment of the future prevalence of fixed-mobile bundles, we propose that the CMA consider if there is some way that it can put forward a ‘safety net’ provision or direction to require further intervention in the wholesale mobile market if fixed-mobile bundles reach some specified and clearly apparent threshold in the retail markets. It may be that Ofcom could be directed to monitor this and to carry out a relevant market review at an appropriate point.