

# Anticipated acquisition by Sinch Holding AB of the SAP Digital Interconnect Unit from SAP SE

## Decision on relevant merger situation and substantial lessening of competition

**ME/6890.20**

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 21 October 2020. Full text of the decision published on 11 November 2020.

Please note that [X] indicates figures or text which have been deleted or replaced in ranges for reasons of commercial confidentiality.

### SUMMARY

1. Sinch Holding AB, a non-operational holding company wholly owned and controlled by Sinch AB (**Sinch**), the parent company of the Sinch Group has agreed to acquire SAP Digital Interconnect (**SAP DI**), a business unit belonging to the SAP Group of companies, ultimately controlled by SAP SE (the **SAP Group**) (the **Merger**). Sinch and SAP DI are together referred to as the **Parties** and, for statements referring to the future, the **Merged Entity**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of Sinch and SAP DI is an enterprise; that these enterprises will cease to be distinct as a result of the Merger; and that the share of supply test is met. Accordingly, the CMA believes that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
3. The Parties overlap in the supply of:
  - (a) application-to-person (**A2P**) short message service (**SMS**) to enterprise customers (**retail supply of A2P SMS**);
  - (b) A2P SMS to other A2P SMS suppliers (**A2P SMS Interconnection**); and
  - (c) cloud communications platform as a service (**CPaaS**).

4. With respect to the retail supply of A2P SMS, the CMA has considered whether it is appropriate to widen the product frame of reference to include the supply of A2P multimedia messaging service (**MMS**), A2P rich communication service (**RCS**) and A2P 'over the top' messaging (**OTT**) (together – **other types of A2P messaging**). On a cautious basis, the CMA has considered the impact of the Merger on the retail supply of A2P SMS separately. However, since no competition concerns arise on any plausible basis, it was not necessary for the CMA to conclude on the product frame of reference. The CMA also considered whether it is appropriate to segment the product frame of reference for the retail supply of A2P SMS by type of enterprise customer and has concluded that such segmentation is not appropriate.
5. On a cautious basis, the CMA has considered the impact of the Merger on (i) the supply of A2P SMS Interconnection; and (ii) the supply of CPaaS separately. However, since no competition concerns arise on any plausible basis, it was not necessary for the CMA to conclude on the product frame of reference.
6. With regard to the geographic frame of reference, on a cautious basis, the CMA assessed the impact of the Merger on a national basis (ie considering messages and other communications that terminate in the United Kingdom (**UK**)). However, it was not necessary for the CMA to conclude on the geographic frame of reference as no competition concerns arise on any plausible basis.
7. For the reasons set out above, the CMA assessed the impact of the Merger on:
  - (a) the retail supply of A2P SMS terminating in the UK;
  - (b) the supply of A2P SMS Interconnection in the UK; and
  - (c) the supply of CPaaS in the UK.
8. The CMA has therefore assessed whether the Merger gives rise to horizontal unilateral effects in (i) the retail supply of A2P SMS terminating in the UK; (ii) the supply of A2P SMS Interconnection in the UK; and (iii) the supply of CPaaS in the UK.
9. In relation to the retail supply of A2P SMS terminating in the UK, the CMA found that the Parties' combined share of supply post-Merger would be moderate, and that the Merger would bring about a relatively small increment. The CMA believes that the Parties do not compete more closely with each other than with third parties in the retail supply of A2P SMS terminating in the

UK and that there will remain sufficient competitors post-Merger to effectively constrain the Merged Entity.

10. In relation to the supply of A2P SMS Interconnection in the UK, the CMA found that the Parties are not the largest suppliers of A2P SMS Interconnection in the UK and that the increment from SAP DI is small. Although the Parties compete closely for the supply of A2P SMS Interconnection, there will remain sufficient competitors post-Merger to effectively constrain the Merged Entity.
11. In relation to the supply of CPaaS in the UK, the CMA found that, since CPaaS is still emerging, the Parties' current position is likely to be an imperfect guide to future competition. The CMA believes that the Parties are not better or worse placed to develop CPaaS than other A2P SMS suppliers and that there will remain sufficient competitors post-Merger to effectively constrain the Merged Entity.
12. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects.
13. The Merger will therefore **not be referred** under section 33(1) of the Enterprise Act 2002 (the **Act**).

## ASSESSMENT

### Parties

14. Sinch is an international telecommunications services and CPaaS supplier. Sinch is present in over 40 locations (including the UK) and is headquartered in Stockholm, Sweden. Its shares are traded on Nasdaq Stockholm.<sup>1</sup> The turnover of Sinch in 2019 was approximately £446 million worldwide, of which approximately £[~~3~~] was generated in the UK.<sup>2</sup>
15. SAP DI is a cloud-based, Application Programming Interface (**API**) driven communications and solutions provider of mobile interconnect solutions and applications, mobile engagement contact centre services and mobile insight services.<sup>3</sup> SAP DI is present in 130 countries (including the UK)<sup>4</sup> and is

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<sup>1</sup> Merger Notice, 1 September 2020 (**Merger Notice**), page 4.

<sup>2</sup> Merger Notice, page 21.

<sup>3</sup> Merger Notice, page 4.

<sup>4</sup> Merger Notice, page 11.

headquartered in San Ramon, California.<sup>5</sup> The turnover of SAP DI in 2019 was approximately £276 million worldwide, of which approximately £[~~2~~] was generated in the UK.<sup>6</sup>

## Transaction

16. The Merger concerns the acquisition by Sinch of SAP DI. Sinch will acquire all legal entities, assets and intellectual property rights belonging to SAP DI's programmable communication, carrier messaging and enterprise solutions business pursuant to a stock and asset purchase agreement entered into between the Parties on 5 May 2020.<sup>7</sup>

## Jurisdiction

17. Each of Sinch and SAP DI is an enterprise. As a result of the Merger, these enterprises will cease to be distinct.
18. The Parties overlap in the supply of A2P SMS terminating in the UK, in respect of which they have a combined share of supply of [20-30]% (with an increment of [5-10]%) (see Table 1 below). The CMA therefore believes that the share of supply test in section 23 of the Act is met.
19. The CMA therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
20. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 3 September 2020 and the statutory 40 working day deadline for a decision is therefore 28 October 2020.

## Counterfactual

21. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For anticipated mergers the CMA generally adopts the prevailing conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is

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<sup>5</sup> Project Seattle - Financial Due Diligence Report, slide 9.

<sup>6</sup> Merger Notice, page 21.

<sup>7</sup> Merger Notice, page 4.

a realistic prospect of a counterfactual that is more competitive than these conditions.<sup>8</sup>

22. The Parties did not make submissions with regards to the relevant counterfactual.
23. The CMA considered whether there is a realistic prospect that, absent the Merger, SAP DI would have been acquired by an alternative purchaser, and whether there is a realistic prospect that any such acquisition would have created a more competitive situation than the prevailing conditions of competition.

### ***SAP Group's decision to sell SAP DI***

24. SAP Group's internal documents indicate that [REDACTED].<sup>9</sup> SAP Group contacted [REDACTED] potential purchasers in total, with [REDACTED] potential purchasers (including Sinch) proceeding to the second round of a bidding process.<sup>10</sup>
25. Although SAP Group ultimately selected Sinch as the winning bidder, the evidence available to the CMA indicates that there is a realistic prospect that, absent the Merger, SAP DI would have been acquired by an alternative purchaser.

### ***Alternative purchaser***

26. SAP Group explained that Sinch was selected as the winning bidder [REDACTED].<sup>11</sup> SAP Group confirmed that [REDACTED].<sup>12</sup> The CMA therefore believes that there is a realistic prospect that, absent the Merger, SAP DI would have been sold to [REDACTED].
27. The CMA assessed whether there is a realistic prospect that an acquisition by [REDACTED] of SAP DI would have created a more competitive situation than the prevailing conditions of competition.
28. [REDACTED] submitted that [REDACTED].<sup>13</sup> However, [REDACTED] explained that, [REDACTED].

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<sup>8</sup> [Merger Assessment Guidelines](#) (OFT1254/CC2), September 2010, from paragraph 4.3.5. The [Merger Assessment Guidelines](#) have been adopted by the CMA (see [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, Annex D).

<sup>9</sup> For example, Annex 016 to Merger Notice, slide 3.

<sup>10</sup> Annex 016 to Merger Notice, slide 6.

<sup>11</sup> SAP Group's response to RFI 1, question 18.

<sup>12</sup> SAP Group's response to RFI 1, question 18; and SAP Group's response to the CMA's section 109 notice dated 21 July 2020, question 9.

<sup>13</sup> [REDACTED].

## ***Conclusion on the relevant counterfactual***

29. The CMA believes that there is a realistic prospect that SAP DI would have been acquired by [REDACTED] absent the Merger. However, based on the available evidence, the CMA considers that it is uncertain whether that acquisition would have resulted in conditions of competition materially different to the prevailing conditions of competition (ie a more competitive counterfactual). The CMA therefore believes the prevailing conditions of competition to be the relevant counterfactual.

## **Background**

30. The Parties overlap in the supply of A2P SMS and CPaaS.<sup>14</sup> This section provides an overview of the Parties' products.

### **A2P SMS**

31. A2P SMS is a messaging service that enables companies (ie enterprises) to communicate with their end customers via SMS. A2P SMS can be used both when a response from the end customer is not expected (eg advertising and marketing) and when it is (eg customer satisfaction surveys or appointment scheduling),<sup>15</sup> although the vast majority of A2P SMS communications are one way.
32. A2P SMS suppliers (such as the Parties) acquire packages of SMS from mobile network operators (**MNOs**) and mobile virtual network operators (**MVNOs**) and offer them to enterprises.<sup>16</sup> A2P SMS suppliers aggregate and route SMS from enterprise customers to MNOs and MVNOs with whom the A2P SMS suppliers have direct connections.<sup>17</sup> MNOs and MVNOs then deliver SMS to the end customers of the enterprises within their network.<sup>18</sup>
33. Using an A2P SMS supplier eliminates the need for enterprises to establish direct connections with multiple MNOs in order to reach their end customers.<sup>19</sup>
34. In addition to the retail supply of A2P SMS (whereby an A2P SMS supplier supplies A2P SMS to enterprise customers), A2P SMS suppliers also supply

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<sup>14</sup>The Parties also overlap in the supply of A2P MMS. However, for the reasons set out in footnote 48, this overlap is not considered further in this decision.

<sup>15</sup> Merger Notice, page 10.

<sup>16</sup> Merger Notice, page 38.

<sup>17</sup> Merger Notice, pages 10 and 11.

<sup>18</sup> Merger Notice, page 38.

<sup>19</sup> Merger Notice, page 81; [REDACTED].

A2P SMS on a wholesale basis, ie to other A2P SMS suppliers (ie A2P SMS Interconnection).

35. Sinch explained that because of the large number of MNOs globally (over 1,000), no single A2P SMS supplier has relationships with all MNOs. All A2P SMS suppliers therefore rely on the supply of A2P SMS Interconnection from other A2P SMS suppliers to cover those areas of the world where they have no direct MNO contacts.<sup>20</sup>

### ***Other types of A2P messaging***

36. The Parties are also active in the supply of other types of A2P messaging: MMS, RCS and OTT.

### ***A2P MMS***

37. A2P MMS messaging enables enterprises to send customers multimedia messages. MMS supports a wide range of formats such as audio, still images, videos and slide shows.<sup>21</sup> Virtually all mobile phones that support SMS also support MMS messaging.<sup>22</sup>
38. Sinch explained that the relationship between A2P suppliers, enterprises and MNOs and MVNOs is the same for A2P MMS as for A2P SMS (see paragraph 32 above).<sup>23</sup>
39. Although both Parties have an A2P MMS offering, [X] (and globally turnover from A2P MMS accounts for [X] of each Party's total turnover from A2P solutions). Sinch submitted that MMS has not become an established format for A2P messaging and customer demand is very low due to limitations of the MMS standard. These include lack of interoperability across mobile networks, creating issues in the transfer of messages and handset compatibility (MMS messages display differently on different handsets making it difficult to ensure each user has the optimum experience). Sinch also explained that MMS messages are more expensive than SMS.<sup>24</sup>
40. Although MMS offers enhanced functionality compared with SMS because it enables mobile phone users to send and receive multimedia messages, Sinch submitted that multimedia messages will only be widely used in the A2P

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<sup>20</sup> Merger Notice, page 45. For example, Sinch uses SAP DI for A2P SMS Interconnection in [X]; and SAP DI uses Sinch for A2P SMS Interconnection in [X]. Merger Notice, pages 43 and 44.

<sup>21</sup> Merger Notice, page 35.

<sup>22</sup> Merger Notice, footnote 142.

<sup>23</sup> Merger Notice, page 82.

<sup>24</sup> Merger Notice, pages 36 and 37.

context through RCS and OTT once these technologies have greater penetration (see below).<sup>25</sup> This is consistent with industry reports. For example, Ofcom's Telecommunications Market Data Update for Q4 2019 notes that the number of MMS messages sent in the UK continues to decline.<sup>26</sup>

## A2P RCS

41. RCS messaging is a successor to SMS and MMS messaging. It combines and builds on the functionalities of SMS and MMS by enabling the communication of text, images and videos and extra features such as group chat.<sup>27</sup> RCS messaging allows for greater interaction with the end customer than SMS and MMS, eg by including buttons embedded within a message that the end customer can click on to respond.<sup>28</sup>
42. The use of RCS is currently limited to mobile phones that operate under the Android operating system. Currently, all mobile phones from the past approximately 18 months that operate under the Android operating system support RCS messaging. These mobile phones can receive RCS messages without the need to install any additional software. Currently RCS messaging is not supported on phones that operate under Apple's operating system.<sup>29</sup>
43. Sinch explained that the dynamics regarding the relationship between A2P suppliers, enterprises and MNOs are the same for A2P RCS as for A2P SMS (see paragraph 32 above).<sup>30</sup>
44. SAP DI does not currently offer an RCS messaging product [REDACTED].<sup>31</sup> Although Sinch has been marketing the benefits of new technologies such as RCS for the past year or more, [REDACTED].<sup>32</sup>
45. Evidence from the Parties' internal documents and industry reports indicates that RCS is still at an early stage of development and that the biggest challenge associated with A2P RCS is reach.<sup>33</sup>

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<sup>25</sup> Merger Notice, page 37.

<sup>26</sup> Ofcom Telecommunications Market Data Update for Q4 2019, page 1.

<sup>27</sup> Merger Notice, pages 11 and 50.

<sup>28</sup> Teach-in session with the Parties dated 8 July 2020.

<sup>29</sup> Merger Notice, pages 50 and 51.

<sup>30</sup> Merger Notice, page 82.

<sup>31</sup> Merger Notice, pages 35 and 51. Sinch explained that although SAP DI is part of Google's 'Early Access' programme for RCS, [REDACTED].

<sup>32</sup> Merger Notice, pages 29 and 51.

<sup>33</sup> Annex 027 to the Merger Notice, page 19; Annex 029 to the Merger Notice, page 19; Annex 006 to the Merger Notice, page 10; and Annex 027 to the Merger Notice, pages 10 and 26.



## A2P OTT

46. OTT messaging enables IP-based message exchanges via internet applications such as WhatsApp, Facebook Messenger, Apple Business Chat, etc. In order to receive OTT messages, mobile phone users need the relevant software to be installed on their devices, such as WhatsApp or Facebook Messenger.<sup>34</sup>
47. Sinch explained that, when sending A2P OTT messages, A2P messaging suppliers do not deal with MNOs but with the proprietors of the OTT messaging channel, eg WhatsApp or Apple.<sup>35</sup>
48. Sinch has an OTT API (Sinch WhatsApp Business API) [redacted].<sup>36</sup> SAP DI also has an OTT API (SAP Social Channel 365) which enables enterprises to leverage popular messaging apps like WhatsApp, Facebook Messenger, WeChat, etc. through a single API, [redacted].<sup>37</sup>
49. Industry reports indicate that while the use of A2P OTT messaging has increased considerably in recent years and is expected to continue growing in the coming years,<sup>38</sup> SMS is still the most common type of A2P messaging because of its universal availability, reliability and low cost.<sup>39</sup>

## CPaaS

50. CPaaS is a multi-layered cloud-based middleware on which developers can build and deploy communications software and services. CPaaS combines A2P messaging (including A2P SMS and the other types of A2P messaging described above) with other technological capabilities for end customer engagement including voice, video calling and Artificial Intelligence (**AI**) based services such as chatbots and voice processing.
51. CPaaS typically includes:<sup>40</sup>
  - (a) an omnichannel interface: a single API/web interface that can be used to connect to different communication channels; and
  - (b) a range of complementary software (value-added software). This can be built by an enterprise or by a third-party supplier. Examples of such value-

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<sup>34</sup> Merger Notice, page 47.

<sup>35</sup> Merger Notice, page 11.

<sup>36</sup> Merger Notice, page 49.

<sup>37</sup> Merger Notice, pages 35 and 52.

<sup>38</sup> Annex 027 to the Merger Notice, page 13.

<sup>39</sup> *Ofcom's Online Nation 2020*, page 150; Annex 028 to the Merger Notice, page 4; and [redacted].

<sup>40</sup> Teach-in session with the Parties dated 8 July 2020; and Merger Notice, page 56.

added software include verification tools, reminders (eg for appointments, deliveries), AI based services, such as chatbots, management of contact lists and other bespoke applications for a particular enterprise (eg Sinch offers anonymisation services for [REDACTED]).<sup>41</sup>

52. CPaaS represents a technological move from pure A2P SMS into multi-channel communications.<sup>42</sup> The capability to offer further possible applications is what distinguishes CPaaS from A2P messaging. Although messaging remains at the core of many CPaaS use cases, the primary value of CPaaS is that it helps developers embed communications capabilities into software applications and business processes with a few lines of code via an API, thereby allowing enterprises to handle different types of communication seamlessly.<sup>43</sup>
53. This capability is becoming more important as the variety and sophistication of different communication channels increases. For example, a Juniper<sup>i</sup> industry report explains that ‘the contextual capabilities enabled by CPaaS can significantly add value in areas such as customer engagement. They allow the most convenient, appropriate channel to be selected depending on the consumer’s location and when the engagement is occurring, therefore delivering a far more positive customer experience’.<sup>44,ii</sup>
54. Sinch’s CPaaS offering combines messaging APIs with voice and video calling, data calling APIs and a range of value-added software. This includes flash call verification, voice verification, SMS verification and engagement platform and AI based services such as number masking.<sup>45</sup>
55. Similarly, SAP DI’s CPaaS offering combines messaging APIs with a range of value-added software, such as mass communication messaging, ‘internet of things’ and software that enables customer-specific contact centre via omnichannel communication.<sup>46</sup>

## Frame of reference

56. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive

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<sup>41</sup> Sinch explained that [REDACTED] uses Sinch’s number masking API to allow [REDACTED] to call each other without disclosing either party’s private phone numbers (Merger Notice, page 30).

<sup>42</sup> Merger Notice, page 12.

<sup>43</sup> Merger Notice, pages 11, 12 and 56.

<sup>44</sup> Annex 044 to the Merger Notice, pages 9-10.

<sup>45</sup> Merger Notice, pages 28 and 29.

<sup>46</sup> Merger Notice, pages 34 and 35.

effects of the merger, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.<sup>47</sup>

57. The Parties overlap in the retail supply of A2P SMS, the supply of A2P SMS Interconnection and the supply of CPaaS in the UK.<sup>48</sup> The CMA considers the relevant frame of reference for each of these overlaps below.

### **Product scope**

#### *Retail supply of A2P SMS*

58. Sinch submitted that the relevant product frame of reference is likely to be broader than A2P SMS, at least encompassing all types of A2P messaging technologies. Sinch stated that customers can and do use these alternative technologies to communicate with end users.<sup>49</sup>
59. The CMA has considered whether it is appropriate to delineate a wider product frame of reference to include the supply of other types of A2P messaging. It has also considered whether it is appropriate to segment the product frame of reference by type of enterprise customer.

#### *A2P SMS and other types of A2P messaging*

60. In *Syniverse/Mach*,<sup>50</sup> the European Commission (the **Commission**) considered A2P SMS as a distinct product frame of reference, although it did not ultimately reach a conclusion on product market definition due to the lack of any competition concerns. The Australian Competition and Consumer Commission (**ACCC**) also identified A2P SMS as a distinct relevant product market in its report on Domestic Mobile Terminating Access Service.<sup>51</sup>
61. Third party evidence received by the CMA and industry reports suggest that there are a number of features of A2P SMS that distinguish it from other types

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<sup>47</sup> [Merger Assessment Guidelines](#), paragraph 5.2.2.

<sup>48</sup> The Parties also overlap in the supply of A2P MMS. However, this overlap is not considered further in this decision as no competition concerns arise on any plausible basis. In particular, [§] and customer demand is very low. As explained in paragraph 40 above, the use of MMS is declining. While the Parties have an A2P MMS offering and generate turnover from their A2P MMS solutions [§], these revenues represent [§] of the revenue each Party generates from their respective A2P solutions. Some of the Parties' competitors in A2P SMS (including [§]) offer A2P MMS.

<sup>49</sup> Merger Notice, pages 46 and 58.

<sup>50</sup> [Case No COMP/M.6690 – Syniverse/Mach](#), 29 May 2013.

<sup>51</sup> Annex 034 to the Merger Notice, page 28.

of A2P messaging. These include price (other types of A2P messaging are often more expensive than A2P SMS),<sup>52</sup> reach (SMS is available across all mobile devices, whereas RCS and OTT messaging technologies are only available on mobile devices with certain operating systems or if additional software is downloaded) and ubiquity (SMS is well established compared to other emerging formats).<sup>53</sup> By contrast, other A2P messaging technologies such as OTT and RCS are more interactive and allow for richer formats (such as video and audio).<sup>54</sup>

62. On the other hand, third parties and the Parties' internal documents suggest a degree of substitutability between A2P SMS and other types of A2P messaging, indicating that A2P SMS is likely to lose volumes to emerging types of A2P messaging as these become more popular.<sup>55</sup>
63. Based on the evidence set out above, the CMA believes that while there is likely to be some degree of substitutability between A2P SMS and other types of A2P messaging, other evidence indicates that they are perceived to be distinct products by industry participants. On a cautious basis, the CMA has considered the impact of the Merger on the supply of A2P SMS separately. However, since no competition concerns arise on any plausible basis, it was not necessary for the CMA to conclude on whether widening of the product frame of reference to include the supply of other types of A2P messaging is appropriate.

#### *Type of enterprise customer*

64. Sinch submitted that each Party has a suite of products available to all customers and that the Parties' A2P SMS offering does not vary by customer segment.<sup>56</sup>
65. Evidence from the Parties' internal documents and from third parties suggests that customer requirements may differ depending on the size of the customer, the industry in which it operates, and the geographic reach required (ie local, regional and global).<sup>57</sup>

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<sup>52</sup> The majority of third parties that responded to the CMA's merger investigation indicated that prices for A2P MMS and A2P RCS are higher than for A2P SMS. Some third parties noted that A2P OTT prices depend on the channel and are sometimes more expensive and sometimes cheaper than A2P SMS.

<sup>53</sup> [REDACTED]; Annex 028 to the Merger Notice, page 14.

<sup>54</sup> Merger Notice, page 49.

<sup>55</sup> For example, Sinch's document titled [REDACTED] dated August 2018, page 4; Annex 025 to the Merger Notice; [REDACTED].

<sup>56</sup> Merger Notice, pages 91 and 92.

<sup>57</sup> Annex 008 to the Merger Notice, page 13; [REDACTED].

66. However, the CMA notes that the Parties and their competitors supply A2P SMS to a wide range of customers across these categories, suggesting a degree of supply-side substitutability.
67. Based on the evidence set out above, the CMA believes that, despite some differences in terms of customer demand, all A2P SMS suppliers are capable of and do supply A2P SMS to different types of customers. The CMA therefore believes that there is supply-side substitution between the retail supply of A2P SMS to different types of enterprise customers and that segmentation of the product frame of reference by enterprise customer type is not appropriate.

### *A2P SMS Interconnection*

68. Sinch submitted that it is not appropriate to regard the supply of A2P SMS Interconnection as a separate product frame of reference as A2P SMS suppliers perform the same service regardless of whether it is provided to an enterprise customer or to another A2P SMS supplier.<sup>58</sup>
69. The Parties' internal documents consider A2P SMS Interconnection separately from the retail supply of A2P SMS.<sup>59</sup>
70. Third party evidence received by the CMA indicates that there is a degree of supply-side substitutability between the retail supply of A2P SMS and the supply of A2P SMS Interconnection. Many (although not all) competitors supply both enterprise customers and other A2P SMS suppliers. In addition, a number of third parties submitted that it would not be difficult for A2P SMS suppliers to start providing A2P SMS Interconnection.<sup>60</sup>
71. Based on the evidence set out above, the CMA believes that while there may be some degree of supply-side substitutability between the retail supply of A2P SMS and the supply of A2P SMS Interconnection, evidence from the Parties' internal documents indicates that there may be a distinction between the two. On a cautious basis, the CMA has considered the impact of the Merger on the supply of A2P SMS Interconnection separately. However, since no competition concerns arise on any plausible basis, it was not necessary for the CMA to conclude on the product frame of reference.

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<sup>58</sup> Merger Notice, pages 45 and 94.

<sup>59</sup> For example, Sinch's [REDACTED] presentation dated 15 May 2020, page 6; SAP DI's Excel spreadsheet titled [REDACTED] dated November 2019; SAP DI's document titled [REDACTED] dated December 2019, page 1; and Annex 008 to the Merger Notice, page 6.

<sup>60</sup> [REDACTED].

## *CPaaS*

72. As set out in paragraphs 50-55 above, the variety and the sophistication of A2P messaging technologies and communications channels more generally is growing. There is therefore an emerging trend for 'CPaaS solutions'.
73. While the scope of the services offered under the CPaaS banner may vary, in its most basic form CPaaS refers to the provision of cloud-based middleware on which developers can build and deploy communications software and services. CPaaS suppliers offer communication APIs (eg messaging, voice and video) and a range of complementary software that simplify the integration of communication capabilities into applications, services and/or business process.
74. The Parties' internal documents and industry reports consider CPaaS separately from the retail supply of A2P SMS and A2P SMS Interconnection.<sup>61</sup>
75. On a cautious basis, the CMA has considered the impact of the Merger on the supply of CPaaS separately. However, since no competition concerns arise on any plausible basis, it was not necessary for the CMA to conclude on the product frame of reference.

## *Conclusion on product scope*

76. For the reasons set out above, the CMA has assessed the impact of the Merger by reference to the following product frames of reference:
- (a) the retail supply of A2P SMS;
  - (b) the supply of A2P SMS Interconnection; and
  - (c) the supply of CPaaS.
77. However, it was not necessary for the CMA to conclude on the product frame of reference, since, as set out below, no competition concerns arise on any plausible basis.

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<sup>61</sup> Sinch's document titled [redacted] dated October 2018, page 6; Annex 006 of the Merger Notice, page 10; Annex 030 to the Merger Notice, page 3; Annex 044 to the Merger Notice, pages 4 to 8; Annex 012 to the Merger Notice, pages 28-30; Sinch's document titled [redacted] dated 22 October 2019, page 22; Sinch [redacted] presentation dated 15 May 2020, page 5; SAP DI's document titled [redacted] dated December 2019, pages 1 to 5; SAP Group's document titled [redacted] pages 1 to 3; Sinch's document titled [redacted] dated 25 September 2019, page 26; and Annex 008 to the Merger Notice, page 15 and 16.

## **Geographic scope**

78. Sinch submitted that although the narrowest conceivable geographic frame of reference is the UK, the Merger should be assessed by reference to a global market, or, in the alternative, an EEA-wide market.<sup>62</sup> Sinch submitted that a global frame of reference is supported by the decisional practice of the Commission (eg *Syniverse/Mach*, *Microsoft/GitHub* and *Microsoft/Skype*)<sup>63</sup> and industry reports,<sup>64</sup> as well as the following characteristics of the market:
- (a) A2P products sold to UK customers have the same technical characteristics as the A2P products sold in other geographies;
  - (b) customers source A2P messaging services on a global basis from a single location;
  - (c) the cloud-based and API based nature of A2P services means that A2P suppliers are not required to establish a physical local presence in each country to offer A2P services;
  - (d) for a supplier that is active in A2P messaging, there are no meaningful barriers to entering a new geographic region;
  - (e) the Parties' and A2P suppliers' advertising and marketing strategies do not vary on the basis of customers' geographic location; and
  - (f) global reach is viewed by the Parties as an important element of their service proposition.<sup>65</sup>

### *The retail supply of A2P SMS and the supply of CPaaS*

79. In *Syniverse/Mach*,<sup>66</sup> the Commission considered that the relevant geographic market for A2P SMS could be wider than national and possibly be worldwide. However, the Commission did not ultimately reach a conclusion on geographic market definition due to the lack of any competition concerns.
80. The CMA has considered whether it is appropriate to delineate a wider than national geographic frame of reference for the retail supply of A2P SMS and the supply of CPaaS.

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<sup>62</sup> Merger Notice, page 59.

<sup>63</sup> Merger Notice, page 59. [Case No COMP/M.6690 Syniverse/Mach](#), 29 May 2013; [Case COMP/M.8994 Microsoft/GitHub](#), 19 October 2018; and [Case COMP/M.6281 Microsoft/Skype](#), 7 October 2011.

<sup>64</sup> For example, Annexes 025, 027, 028, 030 and 031 to the Merger Notice; Merger Notice, pages 65 and 66.

<sup>65</sup> Merger Notice, pages 59 to 66.

<sup>66</sup> [Case No COMP/M.6690 – Syniverse/Mach](#), 29 May 2013.

81. Third party evidence was mixed, but there were some indications that the geographic frame of reference for the retail supply of A2P SMS and the supply of CPaaS may be national. For example, a competitor explained that although the Parties are global players, Sinch also focuses on domestic markets;<sup>67</sup> and nearly half of the customers that responded to the CMA's merger investigation said that at least 90% of the SMS that they send to their end customers are terminated in the UK (ie are sent to mobile devices located in the UK).<sup>68</sup> Consistent with this, a number of competitors said that a substantial proportion of A2P SMS originating from UK headquartered enterprises terminate in the UK.<sup>69</sup> Some customers also said that they considered it important for a supplier to have a local presence and would not deal with a partner without a UK office, although some said that it was not necessary for providers to have a local presence in the UK.<sup>70</sup>
82. The Parties' internal documents also discuss competition in the retail supply of A2P SMS and the supply of CPaaS by reference to individual countries or geographic regions.<sup>71</sup>
83. Third-party analyst reports are consistent with the Parties' internal documents. For example, a Juniper report includes a regional analysis of CPaaS trends, breaking out 'Western Europe' and considering individual countries (France, Italy, UK, Germany, Spain and others).<sup>72</sup>
84. On the basis of the evidence set out above, the CMA believes that while there is some evidence that competition for the retail supply of A2P SMS and the supply of CPaaS takes place at a supra national level, there is also evidence indicating that competition takes place at a national level. On a cautious basis, the CMA has assessed the impact of the Merger in the retail supply of A2P SMS and in the supply of CPaaS on a national basis (ie considering messages and other communications that terminate in the UK). However, it was not necessary for the CMA to conclude on the geographic frame of reference as no competition concerns arise on any plausible basis.

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<sup>67</sup> [REDACTED].

<sup>68</sup> [REDACTED].

<sup>69</sup> [REDACTED].

<sup>70</sup> [REDACTED].

<sup>71</sup> For example, Sinch's presentation titled [REDACTED] dated May 2020, page 8; Sinch's document titled [REDACTED] dated June 2019; Sinch's document titled [REDACTED] dated September 2019, page 26; and Sinch's document titled [REDACTED] dated November 2018, page 6.

<sup>72</sup> Juniper report 'CPaaS Deep Dive Strategy and Competition' dated July 2020.



### *The supply of A2P SMS Interconnection*

85. The CMA has considered whether it is appropriate to delineate a wider than national geographic frame of reference for the supply of A2P SMS Interconnection.
86. The Parties' internal documents discuss competition in the supply of A2P SMS Interconnection on a global or regional basis.<sup>73</sup>
87. As set out in paragraph 35 above, A2P SMS suppliers acquire A2P SMS Interconnection in order to be able to offer their customers the ability to terminate messages in countries where those A2P SMS suppliers do not have direct connections to local MNOs. For example, a third party A2P SMS supplier explained that when dealing with a new enterprise customer, it looks at the geographic markets where that customer wishes to terminate its messages and chooses the A2P SMS Interconnection supplier that provides the most favourable conditions in those geographic markets.<sup>74</sup>
88. Although A2P SMS suppliers may acquire A2P SMS Interconnection in multiple countries from a single supplier,<sup>75</sup> the CMA believes that from a demand-side perspective, A2P SMS Interconnection in one country is not substitutable with A2P SMS Interconnection in a different country.
89. On a cautious basis, the CMA has therefore assessed the impact of the Merger in the supply of A2P SMS Interconnection on a national basis. However, it was not necessary for the CMA to conclude on the geographic frame of reference as no competition concerns arise on any plausible basis.

### **Conclusion on frame of reference**

90. For the reasons set out above, the CMA has considered the impact of the Merger in the following frames of reference:
  - (a) the retail supply of A2P SMS terminating in the UK;
  - (b) the supply of A2P SMS Interconnection in the UK; and
  - (c) the supply of CPaaS in the UK.

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<sup>73</sup> For example, SAP DI's document titled [REDACTED] dated November 2019, page 2.

<sup>74</sup> [REDACTED].

<sup>75</sup> See, for example, footnote 20.

## Competitive assessment

### *Horizontal unilateral effects*

91. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.<sup>76</sup> Horizontal unilateral effects are more likely when the merging parties are close competitors.
92. The CMA assessed whether it is or may be the case that the Merger may be expected to result in an SLC in relation to:
- (a) horizontal unilateral effects in the retail supply of A2P SMS terminating in the UK;
  - (b) horizontal unilateral effects in the supply of A2P SMS Interconnection in the UK; and
  - (c) horizontal unilateral effects in the supply of CPaaS in the UK.

### ***Horizontal unilateral effects in the retail supply of A2P SMS terminating in the UK***

93. In order to assess the likelihood of the Merger resulting in horizontal unilateral effects in the retail supply of A2P SMS terminating in the UK, the CMA has considered:
- (a) shares of supply;
  - (b) closeness of competition between the Parties; and
  - (c) competitive constraints from alternative suppliers.

### *Shares of supply*

94. Sinch submitted that the Parties' combined share of retail supply of A2P SMS terminating in the UK is [30-40]% by value and [30-40]% by volume, with an increment of [5-10]% (by value) and [5-10]% (by volume) brought about by the Merger.<sup>77</sup> Sinch explained that it did not have the necessary data to provide any estimates or indicative ranges of third parties' shares of supply.<sup>78</sup>

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<sup>76</sup> [Merger Assessment Guidelines](#), from paragraph 5.4.1.

<sup>77</sup> Merger Notice, Table 3. Sinch calculated the estimated shares of supply by reference to the country of destination of the A2P SMS.

<sup>78</sup> Merger Notice, page 69.

95. As part of its merger investigation, the CMA estimated shares of supply based on data collected by UK MNOs on the volume of A2P SMS terminated in the UK by each A2P SMS supplier. The CMA’s estimates are set out in Table 1 below.

**Table 1: Shares of retail supply of A2P SMS terminating in the UK (by volume), 2019.**

Competitor	2019
Sinch	[20-30]%
SAP DI	[5-10]%
<b>Combined</b>	<b>[20-30]%</b>
Infobip	[20-30]%
IMImobile	[10-20]%
OpenMarket	[5-10]%
Vonage (Nexmo)	[5-10]%
Twilio	[0-5]%
Commify	[0-5]%
Fonix	[0-5]%
Messagebird	[0-5]%
HGC Global Communications	[0-5]%
CM Telecom	[0-5]%
Esendex	[0-5]%
PageOne	[0-5]%
TeleSign	[0-5]%
Reach Data	[0-5]%
Other	[5-10]%
<b>Total</b>	<b>100%</b>

Source: CMA’s estimates based on data provided by UK MNOs.

96. Table 1 shows that Infobip is the largest supplier of A2P SMS terminating in the UK with a share of supply of [20-30]%, followed by Sinch ([20-30]%), IMImobile ([10-20]%), OpenMarket ([5-10]%), Vonage (Nexmo) ([5-10]%) and SAP DI ([5-10]%). All other A2P SMS suppliers are smaller with shares of supply below [0-5]%.
97. The CMA notes that the data collected from the UK MNOs includes volumes of A2P SMS attributable to the supply of A2P SMS Interconnection in the UK. Therefore, the estimated shares of supply of the Parties and other suppliers of A2P SMS Interconnection in the UK (including [X]) are likely to be overstated. However, the effect of this on shares of supply is likely to be limited as revenues from A2P SMS Interconnection account for [X] of almost all of these suppliers’ overall A2P SMS revenues and, therefore, the overall

market size.<sup>79</sup> The CMA therefore believes that the shares of supply set out in Table 1 provide a reasonable indication of the Parties' market position in the retail supply of A2P SMS terminating in the UK.

### *Closeness of competition between the Parties*

98. Sinch submitted that the Parties are not close competitors on the basis that:
- (a) Sinch does not consider SAP DI to be one of its core competitors (whether at a global, regional or local level);<sup>80</sup> and
  - (b) the Parties do not often compete against each other for A2P SMS customers. In particular, Sinch is not aware of any instance in the last [X] where Sinch and SAP DI have competed with each other for a contract with a UK nexus.<sup>81</sup>
99. The CMA assessed the closeness of competition between the Parties and considered within its assessment:
- (a) the Parties' product offerings;
  - (b) the Parties' internal documents and industry reports; and
  - (c) third party views.

### *The Parties' product offerings*

100. Sinch submitted that, from a technical standpoint, differences between competing A2P SMS suppliers' offerings are limited. This is because all A2P SMS suppliers acquire the same service from the MNOs and regardless of the region or MNO, an SMS is the same 160-character communication.<sup>82</sup>
101. Third parties that responded to the CMA's merger investigation considered that although the Parties' product offerings are similar, other competitors have comparable offerings:
- (a) one customer explained that the Parties and Syniverse are almost identical from a quality and service perspective;<sup>83</sup>

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<sup>79</sup> [X] revenues of A2P SMS Interconnection account for [X] of its overall A2P SMS revenues. Therefore, the CMA considers that [X] estimates set out in Table 1 are likely to be overstated.

<sup>80</sup> Merger Notice, page 70.

<sup>81</sup> Merger Notice, page 78.

<sup>82</sup> Merger Notice, page 91.

<sup>83</sup> [X].

- (b) another customer noted that it treats A2P SMS as a ‘commodity’ and the key factors it considers when choosing an A2P SMS supplier are ‘price and reachability. There are not many differences between aggregators (whether Sinch/SAP or others). The aggregators’ ability to deliver into the market is very strong and all have direct connections to the main MNOs in the big markets (eg US, UK, Australia);<sup>84</sup>
- (c) another customer explained that SAP DI’s offering is not unique and that there are other providers that can offer similar services. It submitted that the difference between SAP DI and other providers is the coverage they can offer;<sup>85</sup>
- (d) one competitor submitted that ‘it has a number of competitors for A2P SMS and CPaaS on a global basis, including Sinch and Infobip. They offer high level products and services and serve the same large customer base as [it does]’;<sup>86</sup> and
- (e) one third party submitted that the main alternative suppliers to the Parties in the retail supply of A2P SMS terminating in the UK are IMI mobile, Infobip, Vonage (Nexmo), OpenMarket and Commify. It noted that the products supplied by these competitors do not differ a lot, although each competitor has a different number of countries they can reach and the [redacted] they offer varies.<sup>87</sup>

*The Parties’ internal documents and industry reports*

102. Sinch’s internal documents show that it monitors SAP DI much less frequently than it monitors other competitors. For example:
- (a) a document titled [redacted] dated 2018 [redacted]; and
  - (b) a document titled [redacted] dated 2019 lists [redacted], [redacted], [redacted], [redacted], and [redacted] as Sinch’s ‘major international competitors’, without referring to SAP DI.
103. However, SAP DI’s internal documents show that it considers Sinch to be one of its main competitors. For example:
- (a) a document titled [redacted] dated April 2019 assesses Sinch’s strength as a competitor across a number of products;

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84 [redacted].  
 85 [redacted].  
 86 [redacted].  
 87 [redacted].

- (b) a document titled [REDACTED] dated November 2019 includes a list of SAP DI's competitors, including [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]; and
- (c) a document titled [REDACTED] dated April 2019 refers to SAP DI's key competitors. Sinch is referred to alongside a number of other suppliers such as [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

104. In light of the evidence set out above, the CMA believes that the Parties' internal documents show a degree of asymmetry in the strength of the competitive constraint that the Parties impose on each other. In particular, SAP DI does not appear to be a material constraint on Sinch, whereas Sinch appears to impose a more significant competitive constraint on SAP DI.

105. This is consistent with industry reports which do not identify SAP DI as a key supplier of A2P SMS. For example:

- (a) The Rocco Report assessed 24 A2P SMS suppliers in total,<sup>iii</sup> with Sinch receiving one of the highest overall scores placing it in Tier 1 of the Leader Board (along with Infobip, Vonage (Nexmo), Tata Communications and Tyntec), whereas SAP DI's overall score was not high enough to qualify for Tier 1;<sup>88</sup> and
- (b) According to the Juniper Report, at least seven suppliers are considered equivalent in terms of the breadth, depth and/or reach of their A2P messaging services and at least twelve suppliers are considered equivalent in terms of the development of their business capabilities and capacities – Sinch is included in both lists of suppliers, but SAP DI is not included in either. Juniper Report's leader board also makes no reference to SAP DI but lists Sinch as one of the 'leading challengers'.<sup>89,iv</sup>

### *Third party views*

106. Generally, customers and competitors that responded to the CMA's merger investigation considered that the Parties are close alternatives to each other in the retail supply of A2P SMS terminating in the UK. In particular:

- (a) the majority of customers indicated that SAP DI is an alternative to Sinch. All of these customers considered that SAP DI competes closely (or at least moderately) with Sinch;

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<sup>88</sup> Annex 029 to the Merger Notice, pages 13 and 14.

<sup>89</sup> Annex 027 to the Merger Notice, pages 34 and 35.

- (b) half of customers indicated that Sinch is an alternative to SAP DI. All of these customers indicated that Sinch competes closely (or at least moderately) with SAP DI; and
- (c) the majority of competitors viewed the Parties as being close competitors. Only one competitor considered that the Parties are weak competitors and only one considered that they are moderate competitors.

#### *Conclusion on closeness of competition between the Parties*

107. On the basis of the evidence set out above, the CMA believes that although the Parties' offerings are similar, the Parties' competitors also have comparable offerings. Although third parties considered that the Parties compete closely, the Parties' internal documents and industry reports indicate that SAP DI is not one of Sinch's core competitors.<sup>90</sup> Other competitors exert a greater competitive constraint on Sinch (as further explained below) than SAP DI.

#### *Competitive constraints from alternative suppliers*

108. Unilateral effects are more likely where customers have little choice of alternative suppliers. The CMA considered whether there are alternative retail suppliers of A2P SMS terminating in the UK which would provide a competitive constraint on the Merged Entity.
109. Sinch submitted that the Parties face competition from a range of competitors in the UK, including IMI mobile, Commify, Infobip, Twilio, Vonage (Nexmo), CM.com, MessageBird, MessageMedia, mGage, OpenMarket and Syniverse. Sinch submitted that post-Merger many strong competitors will remain on the market, exerting significant pressure on the Merged Entity.<sup>91</sup>
110. The Parties' internal documents show that the market for the retail supply of A2P SMS terminating in the UK is highly fragmented and that there are a large number of A2P SMS suppliers that constrain the Parties, such as Twilio, Infobip, Vonage (Nexmo), MessageBird, Link Mobility, IMI mobile, Plivo, OpenMarket, Syniverse, BICS/Telesign, Commify and Bandwidth.<sup>92</sup>

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<sup>90</sup> The CMA notes that some of the evidence relied on by the CMA discusses the conditions of competition on a global level. The CMA considers it appropriate to place weight on such evidence as it has not seen any indication that this evidence should not apply in relation to the conditions of competition in the UK.

<sup>91</sup> Merger Notice, pages 72-74.

<sup>92</sup> For example, Sinch's minutes of a meeting of [redacted] dated 11 July 2019, page 2; Annex 20 to the Merger Notice, page 5; Annex 021 to the Merger Notice; Annex 022 to the Merger Notice; Annex 023 to the Merger Notice; Annex 024 to the Merger Notice; and Annex 043 to the Merger Notice, pages 1 to 3.

111. The vast majority of third parties that responded to the CMA's merger investigation identified IMI mobile, Infobip, OpenMarket, MessageBird, Twilio, Vonage (Nexmo), Syniverse, Link Mobility and Commify as alternatives to Sinch and SAP DI. Some third parties also considered Text Local, Zenvia, BICS, Bandwidth, Plivo, Clickatel, 3CLogic, 8x8, Amazon, Text Local, ActiveCampaign, Avaya, Esendex, ACI and Worldwide as alternatives to the Parties.
112. As explained above at paragraph 101, third parties indicated that the offerings of competitors are comparable to those of the Parties.
113. Based on the evidence set out above, the CMA believes that there will remain sufficient competitors post-Merger to effectively constrain the Merged Entity.

*Conclusion on horizontal unilateral effects in the retail supply of A2P SMS terminating in the UK*

114. For the reasons set out above, the CMA believes that the Parties' combined share of supply post-Merger would be moderate, and that the Merger would bring about a relatively small increment. The CMA believes that the Parties do not compete more closely with each other than with third parties in the retail supply of A2P SMS terminating in the UK and that there will remain sufficient competitors post-Merger to effectively constrain the Merged Entity.
115. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the retail supply of A2P SMS terminating in the UK.

***Horizontal unilateral effects in the supply of A2P SMS Interconnection in the UK***

116. In order to assess the likelihood of the Merger resulting in horizontal unilateral effects in the supply of A2P SMS Interconnection in the UK, the CMA has considered:
- (a) relative supplier size;
  - (b) closeness of competition between the Parties; and
  - (c) competitive constraints from alternative suppliers.

*Relative supplier size*

117. Sinch submitted that the Parties do not have share of supply information for the supply of A2P SMS Interconnection as the Parties [X] do not have



access to the necessary data to provide any estimates or indicative ranges. However, Sinch noted that it has no reason to believe that the Parties' shares of supply of A2P SMS Interconnection would be materially higher than their shares of supply for A2P SMS overall.<sup>93</sup>

118. The CMA collected information on (i) whether other retail suppliers of A2P SMS also supply A2P SMS Interconnection in the UK; and (ii) their revenues from A2P SMS Interconnection in 2019. Only three competing suppliers of A2P SMS Interconnection provided revenue data and the data collected by the CMA is therefore incomplete and cannot be used to reliably estimate shares of supply (see paragraph 123 below for information on other competitors active in the supply of A2P SMS Interconnection). However, the data suggests that [X] is by far the largest A2P SMS Interconnection supplier in the UK (more than three times the size of Sinch). [X] is the second largest A2P SMS Interconnection supplier and has comparable revenues to Sinch. Based on the data, the increment from SAP DI is limited (Sinch, [X] and [X] each generated at least 6 times the revenues generated by SAP DI from the supply of A2P SMS Interconnection in the UK). The data also suggests that [X] is a small A2P SMS Interconnection supplier.

#### *Closeness of competition between the Parties*

119. The Parties' internal documents indicate that the Parties consider each other close competitors and monitor each other in relation to the supply of A2P SMS Interconnection globally.<sup>94</sup>
120. Third party evidence shows that the Parties offer similar services with respect to A2P SMS Interconnection. All of the Parties' competitors who responded to the CMA's merger investigation indicated that the Parties compete closely in the supply of A2P SMS Interconnection.
121. Based on the evidence set out above, the CMA believes that the Parties are close competitors in the supply of A2P SMS Interconnection in the UK.

#### *Competitive constraints from alternative suppliers*

122. Sinch submitted that it is difficult to provide a list of alternative A2P SMS Interconnection suppliers since the Parties are not privy to information regarding whether their A2P SMS competitors have direct access to a

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<sup>93</sup> Merger Notice, page 94.

<sup>94</sup> For example, SAP DI's document titled [X] dated November 2019, page 2; SAP DI's document titled [X], pages 1 to 3; Sinch's document titled [X] dated December 2019, pages 1 to 63; and Annex 006 to the Merger Notice, page 17.

particular MNO in the UK.<sup>95</sup> Sinch submitted that, to the best of its knowledge, the Parties face competition in the supply of A2P SMS Interconnection in the UK from [X], [X], [X] and [X].<sup>96</sup>

123. Based on the revenue data collected by the CMA, as well as the evidence from the Parties' internal documents and third parties, the CMA believes that the Parties face competitive constraints from a number of alternative A2P SMS Interconnection suppliers. In particular:
- (a) the revenue data collected by the CMA shows that [X] and [X] generate higher revenues from the supply of A2P SMS Interconnection in the UK than the Parties. [X] is also active in the supply of A2P SMS Interconnection in the UK;
  - (b) the Parties' internal documents refer to [X], [X], as well as other alternative suppliers (ie [X], [X] and [X]) of A2P SMS Interconnection globally; and
  - (c) some competitors who responded to the CMA's merger investigation indicated that Infobip exerts a significant competitive constraint on the Parties in the supply of A2P SMS Interconnection. The Parties' competitors also mentioned some other smaller alternatives to the Parties, for example: CMTelecom, MessageBird, Twilio and Vonage (Nexmo).<sup>97</sup>
124. Based on the evidence set out above, the CMA believes that there will remain sufficient competitors post-Merger to effectively constrain the Merged Entity.

*Conclusion on horizontal unilateral effects in the supply of A2P SMS Interconnection in the UK*

125. For the reasons set out above, the CMA believes that the Parties are not the largest suppliers of A2P SMS Interconnection in the UK. The increment from SAP DI is also small. Although evidence from the Parties' internal documents and third parties indicates that the Parties compete closely for the supply of A2P SMS Interconnection, the CMA believes that there will remain sufficient competitors post-Merger to effectively constrain the Merged Entity.
126. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of A2P SMS Interconnection in the UK.

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<sup>95</sup> Merger Notice, page 94.

<sup>96</sup> Sinch's response to the CMA's RFI dated 25 September 2020.

<sup>97</sup> [X].

### ***Horizontal unilateral effects in the supply of CPaaS in the UK***

127. In order to assess the likelihood of the Merger resulting in horizontal unilateral effects in the supply of CPaaS in the UK, the CMA has considered:

- (a) the Parties' current position and plans to develop CPaaS;
- (b) whether the Parties are better or worse placed to develop CPaaS than their current rivals; and
- (c) competitive constraints from alternative suppliers.

#### *The Parties' current position and plans to develop CPaaS*

128. CPaaS includes a broader suite of products that includes, among others, A2P SMS, other types of A2P messaging and other value-added software. While the Parties are active in the supply of A2P SMS, [REDACTED].<sup>98</sup>

129. Sinch submitted that it does not have the necessary market share or market size data to provide meaningful estimated shares of supply for CPaaS. However, Sinch submitted that the Parties' combined and individual shares of supply could only be lower in a broader market for CPaaS than their shares for the supply of A2P SMS.<sup>99</sup>

130. As set out in paragraph 72, while the usage of CPaaS remains nascent, the evidence from the Parties' internal documents indicates that the Parties are [REDACTED] developing CPaaS.<sup>100</sup>

131. The CMA believes that, given that CPaaS is still emerging, the Parties' current position is likely to be an imperfect guide to future competition.

#### *Whether the Parties are better or worse placed to develop CPaaS than their current rivals*

132. Sinch submitted that the Parties do not offer anything unique in relation to the other types of A2P messaging or value-added software. Further, Sinch submitted that the Parties have not established any particular first mover

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<sup>98</sup> Merger Notice, pages 29 and 35-36.

<sup>99</sup> Merger Notice, page 73.

<sup>100</sup> For example, SAP DI's document titled [REDACTED] dated January 2020, pages 1 to 20; Sinch's document titled [REDACTED] dated 2016, page 21; SAP DI's document titled [REDACTED] dated November 2018, pages 1 and 2; Sinch's presentation titled [REDACTED] dated 25 October 2018, page 16; Sinch's presentation titled [REDACTED] dated 2018; Sinch's document titled [REDACTED] dated October 2018, page 24; and Sinch's draft email to its clients from President & Chief Operating Officer dated 4 May 2020.

advantage when it comes to the more nascent forms of other types of A2P messaging.<sup>101</sup>

133. The evidence available to the CMA indicates that the Parties are not better or worse placed to develop CPaaS than their current rivals. In particular:
- (a) Sinch's internal documents show that [REDACTED] and SAP DI's internal documents show that its goal is to research and develop its initial A2P RCS solution;<sup>102</sup> and
  - (b) a competitor that responded to the CMA's investigation explained that the Parties are not playing any role in the development and implementation of A2P RCS because they are not the only providers that can implement it.<sup>103</sup>
134. Based on the evidence set out above, the CMA believes that the Parties are not better or worse placed to develop CPaaS than other A2P SMS suppliers.

#### *Competitive constraints from alternative suppliers*

135. Industry reports suggest that there are a large number of alternative suppliers of CPaaS. A report by Gartner notes that 'the market is still experiencing a "gold rush" and attracting even more vendors with different backgrounds and different business models'.<sup>104</sup> It lists the following types of competitors that are already supplying CPaaS (SAP DI is not mentioned):
- (a) consolidated pure-play suppliers,<sup>105</sup> such as Infobip, MessageBird, Plivo, Sinch, Twilio and Vonage (Nexmo);
  - (b) traditional SMS aggregators that have expanded into the CPaaS space,<sup>106</sup> such as Kaleyra, Soprano Design, TeleSign and Zeniva;

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<sup>101</sup> Sinch's submission dated 17 August 2020.

<sup>102</sup> For example, the minutes of a meeting of [REDACTED] dated 17 October 2018, page 1; Sinch's draft email to its clients from President & Chief Operating Officer dated 4 May 2020; Sinch's 2020 presentation titled [REDACTED] from 2020, page 4; Sinch's document titled [REDACTED] dated April 2019, page 5; and SAP DI's document titled [REDACTED] dated 2019, page 1.

<sup>103</sup> [REDACTED].

<sup>104</sup> Annex 030 to the Merger Notice, page 3.

<sup>105</sup> These are suppliers whose offerings exceed the foundational CPaaS offering of SMS and voice APIs, supporting other communications channels, extended APIs, modules and a broad set of management tools.

<sup>106</sup> These are suppliers that can support other channels and modules, but that are still at an early stage due to their recent move to the market.

- (c) enterprise communications and collaboration suppliers,<sup>107</sup> such as Alcatel-Lucent Enterprise, Avaya, OneCloud, IntelPeer, Plum Voice and Ytel;
  - (d) communications service providers and voice network providers,<sup>108</sup> such as AT&T; and
  - (e) mobile-centric software suppliers,<sup>109</sup> such as CM.com.
136. This is consistent with the Parties' internal documents which refer to a number of alternative CPaaS suppliers, such as [REDACTED], [REDACTED], [REDACTED], [REDACTED]; [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED].<sup>110</sup>
137. Third parties that responded to the CMA's merger investigation submitted that Infobip, Twilio, Vonage (Nexmo), MessageBird, Link Mobility and Syniverse are alternative CPaaS suppliers.
138. All of the Parties' competitors who responded to the CMA's merger investigation confirmed that they are already generating revenues or have plans to develop A2P RCS and A2P OTT messaging channels. The Parties' internal documents indicate that most A2P SMS suppliers worldwide are developing or are planning to develop a CPaaS offering.<sup>111</sup>
139. Based on the evidence set out above, the CMA believes that most A2P SMS suppliers in the UK and worldwide supply or are planning to supply CPaaS and that there will remain sufficient competitors post-Merger to effectively constrain the Merged Entity.

*Conclusion on horizontal unilateral effects in the supply of CPaaS in the UK*

140. For the reasons set out above, the CMA believes that, since CPaaS is still emerging, the Parties' current position is likely to be an imperfect guide to future competition. The CMA believes that the Parties are not better or worse placed to develop CPaaS than other A2P SMS suppliers and that there will remain sufficient competitors post-Merger to effectively constrain the Merged Entity.

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<sup>107</sup> These are suppliers which focus on integrating or augmenting existing collaboration or voice solutions.

<sup>108</sup> These are suppliers that can leverage their advanced network capabilities and some unique APIs.

<sup>109</sup> These are suppliers which focus on unique capabilities for mobile (eg payment integration).

<sup>110</sup> Sinch's document titled [REDACTED] dated June 2019, page 6; Sinch's document [REDACTED] dated April 2020, page 7; SAP DI's document titled [REDACTED] dated December 2019; SAP DI's document titled [REDACTED]; Sinch's document titled [REDACTED] dated 2019, pages 16 to 19; and Annex 008 to the Merger Notice, page 13.

<sup>111</sup> For example, Annex 020 to the Merger Notice, page 3, notes that IMI Mobile is the leader in RCS and Zipwhip is expanding in RCS. Another SAP DI document titled [REDACTED] dated January 2020, page 2 states that 'virtually every messaging provider in the world is doing RCS trials, demos, or customer POCs now (ourselves included)'.

141. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of CPaaS in the UK.

### ***Barriers to entry and expansion***

142. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.<sup>112</sup>

143. However, the CMA has not had to conclude on barriers to entry or expansion as the Merger does not give rise to competition concerns on any basis.

### **Third party views**

144. The CMA contacted customers, competitors and suppliers (ie MNOs and OTT providers) of the Parties. Two customers raised concerns regarding the reduction of the number of suppliers of A2P SMS Interconnection. A few competitors raised non-Merger specific concerns or concerns relating to effects of the Merger outside of the UK. No other third parties raised concerns about the Merger.

145. Third party comments have been taken into account where appropriate in the competitive assessment above.

### **Decision**

146. Consequently, the CMA does not believe that it is or may be the case that the Merger may be expected to result in an SLC within a market or markets in the UK.

147. The Merger will therefore **not be referred** under section 33(1) of the Act.

**Naomi Burgoyne**  
**Director, Mergers**  
**Competition and Markets Authority**  
**21 October 2020**

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<sup>112</sup> [Merger Assessment Guidelines](#), from paragraph 5.8.1.

## End notes

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<sup>i</sup> All references to Juniper in this decision mean Juniper Research.

<sup>ii</sup> Juniper Research has provided a link to the report:

<https://www.juniperresearch.com/researchstore/operatorsproviders/cpaas?ch=communications%20platform>

<sup>iii</sup> In relation to paragraph 105(a), Rocco clarified that the report assessed 50 A2P SMS suppliers in total, not 24 A2P SMS suppliers in total.

<sup>iv</sup> Juniper Research has provided a link to the report:

<https://www.juniperresearch.com/researchstore/operators-providers/a2p-research-report>