

30 July 2024

To whom it may concern,

I am writing to you on behalf of Unite the Union, Britain and Ireland's largest private sector trade union, as part of our submission to the CMA's Phase 2 investigation into the proposed merger between Three and Vodafone.

As you may already be aware, Unite welcomed the CMA's decision to launch a Phase 2 investigation into the merger as it reflected a number of our own concerns. Our Union has campaigned rigorously against the merger due to evidence that it will lead to job losses, higher prices and further profiteering, without delivering the promised investment.

Unite has long argued that the primary driver for the merger is not investment, but instead to increase prices to boost profits and shareholder returns. To highlight the real impact of the merger for consumers, Unite commissioned polling agency Survation to survey 1,000 Three UK customers in May 2024. The survey questions were designed to specifically address and further evidence one of the CMA's primary theories of harm set out in the investigation's terms of reference – "horizontal unilateral effects in the supply of retail mobile services to both consumers and businesses in the UK".

Three is currently the lowest-priced MNO in the UK market. Therefore, the merger will eliminate Three as the 'maverick' player in the market which has helped keep prices down. This was acknowledged by the CMA in its Phase 1 decision and was outlined as the first of its three theories of harm to be investigated in Phase 2. Three customers were therefore selected for our polling on the basis that they are a large set of consumers who stand to lose the most from the merger.

As you will see from the briefings and data we have submitted, the results of our polling directly contradict claims by the companies that the merger is needed to meet the exponential growth in demand for 5G. Furthermore, our polling highlights how the merger, if given the green light, would not only exacerbate the ongoing cost-of-living crisis for consumers, but would also deepen existing structural inequalities, particularly for certain key demographics such as low income, female and ethnic minority consumers.

- Price is the main driver of Three customers' consumer choices, not speed and coverage.
- The vast majority of Three customers are currently satisfied with the speed and level of coverage provided by their service.
- More than half of Three customers would struggle or be unable to pay their mobile phone bill if prices rose by £6-10 a month or higher.
- Low income, female and ethnic minority customers on the Three mobile network would be disproportionately impacted by price rises resulting from the merger.
- 1 million Three customers would immediately lose their ability to move to their preferred alternative provider.

You heard from Tommaso Valletti, Professor of Economics at Imperial College Business School and former Chief Competition Economist of the European Commission, in the

oral hearing he attended with Unite last week. We also asked him to share his opinion on the polling specifically for this letter. He said:

Unite's polling is the latest addition to the long list of compelling evidence against the Three-Vodafone merger. Until now the voice of consumers has largely been absent from the public discourse around the merger. But these results send a message from Three customers to the companies and the CMA that this merger would be a bad deal for them. What clearly matters most to Three customers is price, not 5G. This finding in particular is completely at odds with the companies' rationale for the merger. So, with a flimsy business case and a mountain of evidence that many consumers will be put into financial difficulties, it is difficult to see any justification for the Three-Vodafone merger being approved by the CMA.

Unite has consistently argued that the Three-Vodafone merger is primarily a cost-of-living issue. It is therefore no surprise to us that price, rather than speed or coverage, is what drives Three customers' consumer choices. If the deal is passed, all credible evidence suggests that UK consumers – and Three customers in particular - will be asked to pay more. There is also precious little evidence that an MVNO market will compensate for less competition between MNOs. This is a recipe for larger company profits and shareholder returns, not a competitive market that delivers for consumers.

Given the weight of evidence that this merger will lead to a substantial lessening of competition in UK telecoms and therefore higher prices for consumers, we call on the CMA to meet the following statutory duties and protect consumers by blocking the merger:

- Section 25 (3) of the Enterprise and Regulatory Reform Act 2013: “The CMA must seek to promote competition, both within and outside the United Kingdom, for the benefit of consumers”
- Section 36 (4) of the Enterprise Act (2002): “the CMA may, in particular, have regard to the effect of any action on any relevant customer benefits in relation to the creation of the relevant merger situation concerned”. ‘Relevant customer benefits’, as defined under Section 30 of the Enterprise Act, include “lower prices, higher quality or greater choice of goods or services in any market in the United Kingdom”

Yours sincerely,

Sarah Carpenter

Executive Head of Operations, Unite the Union



Unite Three-Vodafone merger polling – summary for CMA Phase 2 investigation

Background

A survey of 1,000 UK residents aged 18 and over on the Three mobile network operator (MNO) and mobile virtual network operators (MVNO) that use the Three network - iD Mobile and Smarty - was conducted by Survation on behalf of Unite the Union in May 2024.¹ 76% of the respondents were direct-Three customers, 21% iD Mobile and 3% Smarty.

The survey was conducted as part of Unite's campaign against the Three-Vodafone merger. Our opposition to the merger is due to evidence suggesting that it would lead to job losses, higher prices and further profiteering, without delivering the promised investment.²

CMA investigation

Unite has submitted evidence to the Competition & Markets Authority's (CMA's) throughout the regulator's investigation into the merger. We are now doing so again as part of the CMA's Phase 2 investigation, the final stage of the process before a decision on whether to block the merger is made.

The survey questions were designed to specifically address and further evidence one of the CMA's primary theories of harm set out in the investigation's terms of reference – "horizontal unilateral effects in the supply of retail mobile services to both consumers and businesses in the UK".³

"The concern under horizontal unilateral effects essentially relates to the elimination of a competitive constraint by removing an alternative that customers could switch to. The CMA's main consideration is whether there are sufficient remaining good alternatives to constrain the merged entity" post-merger from, for example, raising prices.⁴

The above is precisely the situation facing the Three-Vodafone merger. Three is currently the lowest-priced MNO in the UK market. Therefore, the merger will eliminate Three as the 'maverick' player in the market which has helped keep prices down. This was acknowledged by the CMA in its Phase 1 decision and was outlined as the first of its three theories of harm to be investigated further in Phase 2. Three customers were therefore selected for our polling on the basis that they are a large set of consumers who stand to lose the most from the merger.

Company claims

Vodafone and Three claim that the current market of four MNOs is unsustainable.⁵ Whilst the companies have also claimed that the merger will not lead to a rise in prices, their primary



justification for the deal has been the supposed demand for increased investment in 5G networks which would be “great for customers, great for the country and great for competition”.⁶

These claims are being made despite extensive evidence that 4-to-3 telecoms mergers lead to lower investment and higher prices.⁷ The CMA’s decision to fully investigate the proposed merger show that the regulator also shares Unite’s concerns. Notably, the CMA, in the full text of its Phase 1 decision, rejects the companies’ claims that the merger is a necessity:

“The CMA’s phase 1 analysis of the Parties’ recent financial performance and internal strategic documents suggests that both VUK and 3UK are currently viable and competitive businesses and that they would continue to invest in their networks absent the Merger. The CMA therefore believes that if the Merger did not go ahead, 3UK and VUK would continue to compete with each other, as well as with other mobile operators, in a broadly similar way as today”.⁸

Former Vodafone CEO, Ahmed Essam, also claimed that the merger is needed to “build capacity to meet the exponential growth in demand for data and accelerate the roll out of Advanced 5G across the UK, delivering benefits to consumers and businesses throughout the nation.”⁹ However, Unite’s polling shows directly contradicts this claim, showing that the main concern for Three customers is price, not better 5G. Our findings therefore cast major doubts on investment as a driver for the merger. Instead, as the vast majority of independent evidence shows, we argue that the real driver is to increase prices to boost profits and shareholder returns.

Key findings

■ Price is the main driver of Three customers’* consumer choices, not speed and coverage.

Price is by far the biggest driver of Three customers’ consumer choices. Unite’s polling shows that 63% would choose price as their main driver for choosing a mobile network, well above coverage (21%) and speed (10%), two of the main benefits of improved 5G provision. Furthermore, 65% said that price would be their main driver for moving to a different mobile network, compared to 15% for coverage and 9% for speed.

There are also notable demographic aspects to this statistic. For example, 30% of those aged 25-34 are dissatisfied with the current cost of their mobile phone bill. This is also the age group that most strongly believes that there is not enough competition between mobile network operators on price (44%).

■ More than half of Three customers would struggle or be unable to pay their mobile phone bill if prices rose by £6-10 a month or higher

Based on trends from previous 4-to-3 mergers, research by Professor Tommaso of Imperial College London has found the merger will likely cause a rise in prices of £4-£15 for the average per-user monthly cost of mobile phones in the UK, adding around £50-£180 to the average annual mobile



bill.¹⁰ Unite's polling shows that even if prices were to rise by the lower end of this range - £6-10 a month, or £72-120 a year – then 58% of Three customers would have difficulty paying, or be unable to pay, their mobile phone bill.

Further, price rises of £6-10 a month would impact 31% of Three customers' ability to afford their overall household bills. Increases of £21-25 a month would see this rise to 61%.

As customers of the lowest-priced MNO on the UK market, Three customers are naturally more likely to be vulnerable to price rises and therefore stand to lose the most if the merger goes through. However, there will be effects for customers of other networks, in a context of existing above inflation price rises. An April 2024 report released by telecom research and management consultancy Rewheel points out that while in the UK mobile prices were historically lower than the average prices among 4-MNO markets, this is no longer the case. UK monthly mobile prices are increasing while monthly prices in 4-MNO markets are still falling.¹¹

■ **The vast majority of Three customers are currently satisfied with the speed and level of coverage provided by their service.**

Both Three and Vodafone have claimed that the merger is vital for investment if the UK is to meet “exponential growth in demand” for 5G.¹² However, polling by Unite and others shows that consumer demand for increased speed and coverage is, at best, limited.

85% of Three customers polled are currently satisfied with the speed of their service while 82% are happy with their level of coverage. 75% of those polled are also satisfied with the current cost of their mobile phone bill. This contradicts the idea that consumers would be happier paying more for better 5G. This assertion is also backed up by recent research by the Oliver Wyman consultancy which showed that 67% of UK consumers either see no value in paying extra for a 5G connection (46%) or see the value but would not pay extra (21%).¹³

These points further evidence the CMA's findings in its Phase 1 decision document which cited both Unite's previous polling on this issue and Ofcom's conclusion that “although quality is important to customers, there is a greater focus on price as a basis for competition”.¹⁴

■ **Low income, female and ethnic minority customers on the Three mobile network would be disproportionately impacted by price rises resulting from the merger**

Given the negative impact of price rises on Three customers overall, it is vital that other intersectional dimensions are also taken into account to fully understand the social impact of the merger. Unite's polling highlights that the merger threatens to exacerbate existing structural inequalities, particularly for certain key demographics such as low income, female and ethnic minority consumers.

Given that Three is currently the cheapest MNO in the UK, Three customers are particularly exposed to price rises that are likely to result from the merger. 23% of low income Three customers (those who earn less than £20,000 a year) would be unable to afford their mobile phone bill if prices increased by £6-10 a month post-merger. This jumps to 67% if prices rose by £21-25 a



month. Price rises of £6-10 a month would also impact 51% of low income Three customers' ability to afford their overall household bills.

By contrast, only 5% of Three customers who earn over £40,000 a year would be unable to afford their mobile bill with price increases of £6-10 a month, while 21% would struggle to pay their overall household bills.

Women and ethnic minority customers are also more likely to face difficulties in paying their mobile and household bills if prices rise post-merger compared to men and those of White ethnicity. For example, based on price increases of £6-10 a month, female Three customers are 9% more likely to struggle to pay their mobile phone bill than male customers, and Black, Asian and Ethnic Minority Three customers are 12% more likely to struggle to pay their mobile phone bill than White customers.

■ **1 million Three customers would immediately lose their ability to move to their preferred alternative provider.**

We asked the 1,000 Three customers we surveyed which mobile network operator (and MVNO) they would be most likely to choose if they had to change. This question was formulated in an ambiguous way to capture both price and coverage/speed effects. Given that EE and O2 are both perceived to be expensive networks and EE has better 5G speed and coverage than both merger companies,¹⁵ Three customers that would choose to move to Vodafone is highly significant.

Starting with MNOs, 39% of Three customers would choose to switch to an alternative MNO - EE 19%, O2 11%, Vodafone 9%. On the basis that Three is the lowest-priced MNO in the UK market and prices are very likely to rise post-merger, the 9% of Three customers who would choose to move to Vodafone would immediately lose their ability to choose a cheaper operator as a result of this reduction in competition.¹⁶ This represents 23% of the MNO market.

This figure is also very likely to be an underestimate given that the question did not explicitly ask customers who they would likely choose to move to if Three's prices rose (18% of respondents answered 'not sure' for this question).

To put this in perspective, if our polling results were extrapolated for Three's current customer base, around 1 million consumers would be unable choose a cheaper alternative operator.¹⁷ This is the key concern raised by the CMA in its primary theory of harm concerning horizontal unilateral effects and whether there are sufficient remaining good alternatives to constrain the merged entity post-merger.

Another important finding is that 31% of Three customers would potentially switch to an MVNO. MVNOs provide important alternatives for consumers, who traditionally offer contracts much cheaper than their parent networks due to, inter alia, lower overheads.

While the companies claim that the merger will increase competition in the MVNO market,¹⁸ the CMA is rightly concerned that fewer MNOs in the market will mean that the merger will also "diminish prospective and existing MVNOs' ability to leverage competition between MNOs, thereby



placing them in a weaker negotiating position to obtain favourable wholesale access terms”.¹⁹ This could also increase prices within the wider market.

Of course, there would also likely be negative effects on Vodafone customers who were not part of this survey.

Conclusions

This polling is further evidence of what Unite has argued throughout our campaign against the Three-Vodafone merger: this is a bad deal for consumers. Our view is that the merger is ultimately a cost-of-living issue.

We believe that the evidence supplied in this briefing not only addresses the CMA’s primary theory of harm set out in this investigation’s terms of reference - horizontal unilateral effects – but also, more fundamentally, the CMA’s statutory responsibilities under Section 36 (4) of the Enterprise Act (2002): “the CMA may, in particular, have regard to the effect of any action on any relevant customer benefits in relation to the creation of the relevant merger situation concerned”. ‘Relevant customer benefits’, as defined under Section 30 of the Enterprise Act, include “lower prices, higher quality or greater choice of goods or services in any market in the United Kingdom”.²⁰

If the deal is passed, all credible evidence suggests that UK consumers – and Three customers in particular - will be asked to pay more. This is a recipe for larger company profits and shareholder returns, not a competitive market that delivers for consumers.

Given the CMA’s statutory responsibility to ensure that competition and markets work well for consumers and protect them from harms, not to mention its legal obligation to promote equality and diversity in its work, we hope that the evidence supplied in this briefing contributes to the Three-Vodafone merger being blocked when it makes its final decision later this year.

* “Three customers” here and throughout the below refers to all respondents, including those both directly on Three and the MVNOs that use its network.

¹ Summary and data tables have been submitted separately

² <https://www.unitetheunion.org/media/5728/unite-the-union-three-vodafone-merger-consumer-dossier.pdf>

³ https://assets.publishing.service.gov.uk/media/65fc9b4ba6c0f7001aef921c/Summary_of_phase_1_decision_pdfa.pdf p.4

⁴ https://assets.publishing.service.gov.uk/media/65fc9b4ba6c0f7001aef921c/Summary_of_phase_1_decision_pdfa.pdf p.4

⁵ <https://www.telegraph.co.uk/business/2023/03/16/three-unsustainable-without-vodafone-merger-bosses-admit/> and <https://investors.vodafone.com/sites/vodafone-ir/files/2023-06/vodafone-uk-and-three-uk-investor-presentation.pdf> p.4



⁶ <https://www.vodafone.co.uk/newscentre/press-release/merger-of-vf-uk-three-uk-to-create-one-of-europes-leading-5g-networks/>

⁷ <https://www.unitetheunion.org/media/5728/unite-the-union-three-vodafone-merger-consumer-dossier.pdf> pp.3-4

⁸ https://assets.publishing.service.gov.uk/media/662ba2bffddcc9e7ab2252a7/Full_text_decision.pdf pp.5-6

⁹ <https://www.ispreview.co.uk/index.php/2024/01/competition-watchdog-investigates-vodafone-and-three-uk-merger.html>

¹⁰

<https://static1.squarespace.com/static/65c9daef199ea70aa66592fe/t/65fb3e99787a44364ac22bf7/1710964379243/2306-Vodafone-3-merger-FINAL2.pdf>

¹¹https://research.rewheel.fi/downloads/Annex_I_UK_United_Kingdom_The_state_of_mobile_and_broadband_pricing_1H2024_PUBLIC_REDACTED_VERSION.pdf

¹² <https://www.cityam.com/three-uk-boss-says-vodafone-merger-is-vital-to-offset-investment-costs/> and

<https://www.lightreading.com/5g/vodafone-insists-uk-5g-is-at-risk-without-three-merger>

¹³ <https://www.oliverwyman.com/content/dam/oliver-wyman/v2/publications/2023/october/telco-mobile-and-fixed-connectivity.pdf> p.12

¹⁴ Ofcom's future approach to mobile markets and spectrum, Conclusions paper, December 2022, paragraphs 3.14 and 4.2. https://www.ofcom.org.uk/__data/assets/pdf_file/0036/248769/conclusions-mobile-spectrum-demand-and-markets.pdf

¹⁵ https://assets.publishing.service.gov.uk/media/662ba2bffddcc9e7ab2252a7/Full_text_decision.pdf pp.115-116

¹⁶

https://assets.publishing.service.gov.uk/media/65fc9b4ba6c0f7001aef921c/Summary_of_phase_1_decision_pdfa.pdf p.4

¹⁷ <https://www.threemediacentre.co.uk/content/three-uk-publish-q1-2024-results/>

¹⁸ <https://www.bbc.co.uk/news/technology-67136483>

¹⁹ https://assets.publishing.service.gov.uk/media/662ba2bffddcc9e7ab2252a7/Full_text_decision.pdf p.7

²⁰ <https://www.legislation.gov.uk/ukpga/2002/40/section/36?view=plain>