UNITE THE UNION
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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, in response to the Notice of Possible Remedies for the proposed merger between Three and Vodafone.

We are pleased to note the CMA has concluded in its provisional findings that the merger would lead to price increases for tens of millions of mobile customers, or see customers get a reduced service such as smaller data packages in their contracts. As you know this is one of our central concerns about the merger, and has been supported by our own research, plus that of independent experts such as Professor Tommaso Valletti and the Balanced Economy Project. It is also of public concern, as shown by the polling that we previously commissioned and shared with the inquiry panel.

We also share the CMA's view that blocking, or prohibition, of the merger would "represent a comprehensive solution to all aspects of the [substantial lessening of competition] we have provisionally found (and consequently any resulting adverse effects) and that the risks in terms of its effectiveness are very low."

However, we are deeply concerned to read that the CMA is considering behavioural remedies as an alternative to prohibition. We note that CMA itself has concerns about the challenges and risks of choosing behavioural remedies over the low-risk alternative of prohibition. Specifically the analysis cites "specification, distortion, circumvention as well as monitoring and enforcement risks".

In this regard we would again refer the CMA to our research relating to the Vodafone/TPG merger in Australia which we detailed in our "consumer dossier" that we have previously submitted. In 2018 the Australian state approved a telecoms merger between Vodafone Hutchison Australia (VHA), which was owned by Vodafone and CK Group, and TPG.

As would be the case in the UK if the Three-Vodafone merger goes through, this reduced the market from four to three MNOs. The results have been terrible for Australian consumers: The three remaining MNOs all significantly raised prices in the 12 months after the merger was completed in July 2020. Vodafone/TPG increased post-paid plans by between AUD$5 and $40 per month and reduced the expiration period of its pre-paid plans from 35 to 28 days, effectively meaning a 25% increase in costs for consumers over the course of a year. Meanwhile, Telstra, increased post-paid plans by between $5 and $15 per month, along with an effective increase of between 25% and 50% on pre-paid plans.

In contrast, Unite analysis of company accounts shows Australian MNOs have invested less and less every year since 2018. Overall investment levels are now 45% lower than five years ago.

The Australian Competition and Consumer Commission (ACCC), which had opposed the merger, stated: "Our analysis shows that consumers will now be left paying significantly more for a range of mobile phone plans at Telstra, Optus and Vodafone… The ACCC opposed the merger of TPG and Vodafone because we were concerned it would lead to higher mobile prices, and result in three similar providers with little incentive to compete

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strongly… When markets end up with a smaller group of large look-alike players with stable positions, competition is muted and consumers pay more."

Given the weight of evidence, and the CMA's own provisional findings, that this merger will lead to a substantial lessening of competition in UK telecoms and therefore higher prices for consumers, prohibition of the merger remains the sole effective response available to the CMA. Unite is clear that relying on behavioural responses is a high-risk with millions of low-income mobile phone users those that will bear the costs if it fails.

We therefore again urge 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