LIBERTY GLOBAL'S RESPONSE TO THE CMA'S PROVISIONAL FINDINGS REPORT

VODAFONE UK / THREE UK

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Liberty Global submission in response to provisional findings concerning the proposed Joint Venture between Vodafone Group PLC and CK Hutchinson Holdings Limited

1. Introduction

1.1 Liberty Global is grateful for the opportunity to share our views on the proposed merger between Vodafone UK and Three UK (**"the Merger"**). For the reasons set out in our submission below, we are confident that permitting the Merger subject to the transfer of spectrum to Virgin Media O2 (**"VMO2"**) and agreed amendments to the Beacon network sharing arrangements (**"the Beacon 4.1 Agreements"**) will deliver real benefits to society and to consumers and has a real potential to drive investment in the UK.

1.2 Our UK operating entity VMO2 will make its own submission from an operator perspective, and we write in support of this submission as long-term investors.

1.3 Liberty Global is a substantial and long-term investor in the UK, through our joint ventures VMO2 and nexfibre, as well as the Formula E electric vehicle racing series, the edge data centre provider Atlas Edge and the renewable energy companies Egg and Believ.

2. Need for scale backed by proposed commitments

2.1 As an investor, we make conscious decisions where to best allocate our money. We believe that the spectrum divestment to VMO2 and the Beacon 4.1 agreement are transformative and have real potential to drive investment in the UK and to deliver meaningful benefits to society and to consumers.

2.2 Operators need to make reasonable returns on investment to meet demands for the rollout of Gigabit networks (fixed broadband and 5G). Underinvestment hinders the sector's growth and prevents the UK from fully benefiting from technological advancements brought about by Gigabit networks. The key to unlocking the necessary investment lies in achieving scale – that is precisely what elements of the sector are lacking today. Some businesses have too few customers on the network in order to achieve sufficient returns on investment. We note this is a theme raised by third parties on the relevance of scale to the UK telecoms industry as referenced in the CMA's Provisional Findings[1] and is a view that we echo.

[1] Provisional Findings, paragraphs 8.110-8.114.

2.3 The proposed spectrum divestment will allow VMO2 to invest more efficiently and effectively. It will enhance VMO2's competitiveness, and in turn enable the wider rollout of 5G networks. This is explained in more detail in VMO2's submission.

2.4 The Beacon 4.1 Agreements will rebalance the Beacon network sharing arrangements, significantly enhancing VMO2's competitiveness. Again, this will support growing scale to unlock the necessary investment. The current network sharing agreement between VMO2 and Vodafone UK allows for the sharing of network infrastructure and the costs involved to maintain and roll out the network The amendments in Beacon 4.1 will enable this to continue and crucially, also support VMO2 in meeting the demands of deploying 5G networks, which is a significant investment challenge.

2.5 We believe that behavioural remedies are an extremely appropriate way to address the CMA's concerns about the Merger by preserving the substantial rivalry-enhancing efficiencies and relevant customer benefits arising from the Merger.

3. Spectrum divestment to VMO2 will have a positive effect on investment and competition

3.1 As an MNO, additional spectrum will have a substantially positive effect on VMO2's network, enhancing their network competitiveness in the market, both at a retail and wholesale level against the MergeCo and BTEE. In turn it will enable the wider rollout of 5G networks and drive innovation, providing increased network capacity and quality to consumers. As detailed in VMO2's response, it will increase capacity rapidly, and significantly improve coverage, reducing congestion and providing higher average upload and download speeds. The grant of additional spectrum will increase the efficiency of VMO2's network investment. This in turn would support Liberty Global in continuing ongoing investments in the UK and make such investments more attractive.

4. The Beacon 4.1 Agreement will have a positive effect on competition and investment

4.1 At retail level, under the Beacon 4.1 Agreements, the Merged Entity will remain incentivised to ensure the proper functioning of the Beacon network sharing arrangements post-Merger including through detailed deterrent mechanisms and financial penalties, as well as safeguards to network performance, coverage and customer experience during the integration period (and beyond).

4.2 The Beacon 4.1 Agreements and the increased network capacity will bolster the strength of VMO2's wholesale competitiveness by making VMO2 a more effective partner for existing and prospective wholesale customers. By increasing VMO2's network capacity, there will be wider benefits for network quality and customer experience, including for Sky Mobile and Tesco Mobile whose customers receive their network services on the VMO2 network. The additional spectrum will enable higher download speeds and improve overall customer experience as a result. The improvements to the network capacity and quality will enhance their ability to compete in turn.

4.3 All of the above will support VMO2 in achieving scale and sufficient returns on investment. This in turn would support Liberty Global in continuing ongoing investments in the UK.

5. Behavioural remedies are appropriate to address concerns about the Merger

5.1 We welcome the CMA's openness to the possibility of clearing the transaction based on behavioural remedies and feel this is a highly appropriate way to address the CMA's concerns about the Merger. We note from Vodafone UK and Three UK's (**"the Parties"**) response to the Notice of Possible Remedies that they are open to a Network Commitment which aims to enable the delivery of the Parties' joint business plan[2]. On that basis, this seems to us to be a highly appropriate path to clearance and poses a remedy that would encourage wider investment.

5.2 Further, the openness to behavioural remedies by the CMA is very positive, paving the way for future investment. In the recent report by Mario Draghi commissioned by the European Union, wider investment is noted as being crucial to boosting competitiveness and market resilience and to achieving Gigabit connectivity goals[3].

5.3 For the reasons outlined above, increasing VMO2's network capacity by the Beacon 4.1 Agreement and the divestment of additional spectrum is the most practical remedy and is crucial to enhancing competition and driving real consumer benefits.

[2] The Parties' Response to the Notice of Possible Remedies, Section 4, paragraphs 4.1-4.58
[3] *The future of European competitiveness: Report by Mario Draghi,* Part 3, Section 1, Chapter 3