

**VODAFONE UK/THREE UK****VMO2 RESPONSE TO THE CMA PROVISIONAL FINDINGS**

4 October 2024

**1 EXECUTIVE SUMMARY**

- 1.1 Virgin Media O2 (“**VMO2**”) welcomes the opportunity to comment on the CMA’s Provisional Findings (“**Provisional Findings**”)<sup>1</sup> regarding the proposed merger between Vodafone Limited (“**VUK**”) and Hutchison 3G UK Limited (“**3UK**”) (the “**Merger**”). VMO2 considers that permitting the Merger subject to the spectrum divestment and amended Beacon network sharing arrangements (the “**Beacon 4.1 Agreements**”)<sup>2</sup> will deliver the best outcome for UK consumers and businesses.
- 1.2 As such, VMO2 welcomes the CMA’s detailed assessment of the Beacon 4.1 Agreements, and recognition of the rivalry enhancing efficiencies (“**REEs**”) arising from them.<sup>3</sup> However, VMO2 considers that the CMA has not appreciated the full extent of the benefits flowing from the Beacon 4.1 Agreements which, together with the Merger, provide a credible path forward for the Parties and VMO2 to meet the significant investment challenges faced by telecoms operators in relation to 5G and beyond.
- 1.3 The existing Beacon arrangements have delivered significant benefits for UK consumers and businesses, through faster and more efficient network rollout. The material scale efficiencies and cost-savings created by Beacon have translated into more resources available for investments and customer innovation. The Beacon arrangements are critical to VMO2’s ability to roll out a competitive 5G network. The Beacon 4.1 Agreements ensure that Beacon will continue to deliver these cost-savings and are underpinned by a substantial spectrum divestment, which will bring even greater benefits to UK consumers and businesses.
- 1.4 In addition to the benefits flowing from the Merger, the spectrum transfer will enable VMO2 to materially increase the capacity, coverage and quality of its mobile network, reducing congestion, and providing higher average upload and download speeds. The transformative effect of the Beacon 4.1 Agreements will, in turn, have a lasting, positive structural effect on competition in the retail and wholesale mobile markets. Retail competition will be enhanced by even stronger competition from VMO2, Tesco Mobile and Sky Mobile, which will constrain the merged entity (“**MergeCo**”) and drive innovation. Other players in the market, including BTEE, will have no choice but to

---

<sup>1</sup> See CMA, “*Anticipated Joint Venture between Vodafone Group PLC and CK Hutchison Holdings Limited Concerning Vodafone Limited and Hutchison 3G UK Limited, Provisional Findings Report, ME/7064/23*”, 13 September 2024 (link available [here](#)) (“**Provisional Findings**”). Defined terms are as set out in the Provisional Findings unless specified otherwise.

<sup>2</sup> See Provisional Findings, paragraph 5.92.

<sup>3</sup> See Provisional Findings, paragraph 14.198.

respond to the increased rivalry. The competitive dynamics in the wholesale market will be improved with three strong competitors vying for business from MVNOs.

- 1.5 To the extent that the CMA has residual concerns, VMO2 considers that these can be addressed by behavioural commitments from the Parties which complement the structural measures in the Beacon 4.1 Agreements.<sup>4</sup> This response should be read together with VMO2's response to the CMA's Remedies Notice.<sup>5</sup>

## 2 BEACON 4.1 AGREEMENTS PRESERVE VMO2'S ABILITY TO COMPETE

- 2.1 VMO2 welcomes the fact that the CMA has taken account of the Beacon 4.1 Agreements and agrees that, where a contract is entered into between a merger party and a third party during the CMA's assessment of a merger, the CMA must consider the extent to which it impacts the competitive assessment.<sup>6</sup> VMO2 also agrees that the factors that may limit the extent to which contracts are capable of resolving competition issues do not apply to the Beacon 4.1 Agreements.<sup>7</sup>

### **The spectrum divestment is a one-off, certain and permanent structural measure**

- 2.2 The Beacon 4.1 Agreements are underpinned by a substantial spectrum divestment from VUK to VMO2.<sup>8</sup> VMO2 currently has the least usable amount of spectrum of the four UK MNOs, despite supporting the largest number of connections (when including MVNOs). The spectrum transfer agreement addresses this by transferring [X] of spectrum to VMO2. The spectrum divestment is a one-off, certain and permanent transfer to a party that will deploy the spectrum assets quickly.<sup>9</sup>
- 2.3 The spectrum transfer will rebalance the need for new sites between VMO2 and MergeCo and ensure that both parties can benefit from similar equipment deployment, driving efficiencies in network rollout and providing greater incentives for rollout (as each operator can benefit from the rollout of the other, [X]). The additional spectrum will also provide VMO2 with the ability to increase capacity and quality rapidly, allowing it to compete more effectively across the whole country. As such, this structural measure not only preserves the Beacon parties' incentives to cooperate, but also significantly enhances VMO2's ability to compete in the retail and wholesale markets (*see* sections 3 and 4 below).

---

<sup>4</sup> See CMA, "Anticipated Joint Venture between Vodafone Group PLC and CK Hutchison Holdings Limited Concerning Vodafone Limited and Hutchison 3G UK Limited, Notice of possible remedies under Rule 12 of the CMA's rules of procedure for merger, market and special reference groups", 13 September 2024 (link available [here](#)) ("Remedies Notice").

<sup>5</sup> See VMO2 Response to the CMA Remedies Notice, 27 September 2024 (link available [here](#)).

<sup>6</sup> See Provisional Findings, paragraph 10.20.

<sup>7</sup> See Provisional Findings, paragraphs 10.22-10.24.

<sup>8</sup> See Provisional Findings, paragraphs 10.23.

<sup>9</sup> See VMO2 Response to the Remedies Notice, paragraph 2.1. Specifically, VMO2 agrees that MergeCo will be incentivised to divest the spectrum (*see* Provisional Findings, paragraphs 10.76-10.80). In addition, VMO2 agrees that once the totality of the spectrum is transferred, there will not be any ongoing contractual obligations between VUK and VMO2 in relation to the Spectrum Transfer Agreement (*see* Provisional Findings, paragraph 10.23).

**Beacon 4.1 will deliver capacity and quality benefits to customers of MergeCo and VMO2**

- 2.4 Beacon 4.1 was designed to change the costs and benefits that MergeCo would face in a scenario where it sought to disrupt the shared network and harm VMO2. The key provisions of the Beacon 4.1 Agreements effectively realign VMO2's and MergeCo's long-term incentives to engage cooperatively, and use Beacon as an efficient and effective joint vehicle for delivering high quality competitive mobile networks for both VMO2 and MergeCo post-Merger. This will result from: (i) MergeCo's sizeable spectrum divestment to VMO2; (ii) a joint upgrade plan (the Consolidated Works Programme (the "CWP")) aimed at synergising MergeCo and VMO2 deployment requirements across the MORAN areas, with financial incentives to promote prompt delivery of the agreed network deployment and upgrade plans and penalties for under-delivery, including [X]; and (iii) access for VMO2 to additional 3UK sites with an additional powerful penalty regime to incentivise MergeCo to secure that access.
- 2.5 In sum, the Beacon 4.1 Agreements provide MergeCo with strong incentives to remove, or otherwise minimise, network asymmetry, and provide for significant financial penalties in the event that MergeCo fails to comply. The Beacon 4.1 Agreements form the bedrock of the Parties' Joint Network Plan ("JNP"), which uses the Beacon network as the base grid and integrates a significant number of 3UK sites.<sup>10</sup> As such, VMO2 agrees that the Beacon 4.1 Agreements ensure that MergeCo will not have the incentive to disrupt the Beacon arrangement.<sup>11</sup> Instead, building on decades of successful network sharing, the Beacon 4.1 Agreements will both incentivise MergeCo to realise the Joint Business Plan ("JBP") and enhance VMO2's competitiveness (see sections 3 and 4 below).

**3 THE MERGER AND BEACON 4.1 AGREEMENTS WILL DELIVER SUBSTANTIAL EFFICIENCIES**

- 3.1 VMO2 agrees that that the Merger together with the Beacon 4.1 Agreements will result in substantial REEs and is a once in a generation opportunity (which could not come about absent the Merger) to deliver significant uplift to network quality and capacity that will benefit UK consumers and businesses alike. Properly considered, VMO2 expects these REEs to offset the potential anticompetitive effects of the Merger.

**The merged network will have more capacity and better quality, increasing the intensity of competition**

- 3.2 VMO2 agrees with the CMA that there are economic reasons why a merger of MNO networks will in principle lead to REEs. With more sites and more spectrum than the networks of each Party individually absent the Merger, the merged network will be able

---

<sup>10</sup> See Provisional Findings, paragraphs 10.21.

<sup>11</sup> See Provisional Findings, paragraph 10.104. Specifically, VMO2 agrees that it is appropriate to take into account the Beacon 4.1 Agreements in the CMA's assessment of the incentive of MergeCo to disrupt the effective functioning of the Beacon network sharing arrangement (see Provisional Findings, paragraphs 10.42). VMO2 agrees that consents from BTEE and MSPs will not prevent VMO2 from accessing sites (see Provisional Findings, paragraph 10.91). VMO2 also agrees that MergeCo will have the incentive to comply with the Beacon 4.1 provisions in relation to the retained 3UK sites (see Provisional Findings, paragraph 10.103).

to achieve better coverage and deploy greater capacity than either of the Parties' networks could do individually (other things remaining equal).<sup>12</sup>

- 3.3 VMO2 considers that the CMA correctly concludes that network *quality* improvements will make MergeCo a stronger rival.<sup>13</sup> However, VMO2 is concerned that the CMA may be understating the value of these quality improvements. Mobile network quality improvements, such as more reliable and better quality 5G networks across all of the regions of the UK, are an important part of the Government's growth agenda and are critical to ensuring that communities across all four nations benefit from digital communications (particularly as such communities may not have access to high-speed fibre broadband).<sup>14</sup> Improved latency and network speeds will be important to the development of a range of mobile applications (*e.g.*, autonomous transport solutions, remote healthcare, autonomous robotic control, smart device applications, gaming, augmented reality, virtual reality and other immersive experiences) and new communications services (*e.g.*, private access point name, network slicing and hybrid private networks). 5G standalone ("5G SA") also uses more energy efficient technology, helping MNOs to reduce energy use, which is critical to achieving the UK's net zero emissions targets.
- 3.4 However, a substantial increase in the *capacity* available on the merged network will also increase the intensity of competition. MNOs are strongly incentivised to fill their networks and a substantial increase in the volume of customers or data that a network can serve will, *in and of itself*, increase the intensity of competition as MNOs compete to attract new retail and wholesale customers onto their networks. Due to increased spectrum and site densification, the merged network is expected to have significantly more capacity. The Parties expect at least a 65% uplift compared to the sum of the Parties' standalone network capacities as at 2029.<sup>15</sup> With such a large amount of extra capacity coming onto the market, at the same time as VMO2 is substantially increasing its network capacity through the CWP (*see below*), competition to fill this expanded capacity will undoubtedly be fierce.
- 3.5 VMO2 also agrees with the CMA that combining networks enables more spectrum to be deployed at each site, thereby reducing the unit cost of expanding capacity. Given that mobile operators need to increase capacity to meet growing demand,<sup>16</sup> this reduction in unit cost of capacity may represent a reduction in long-term incremental cost.<sup>17</sup> While important, this is only part of the expected competitive impact of the Merger.

---

<sup>12</sup> See Provisional Findings, paragraph 14.21.

<sup>13</sup> See Provisional Findings, paragraphs 14.21, 14.82 and 14.174.

<sup>14</sup> See UK Government, "*UK Wireless Infrastructure Strategy Report*", 11 April 2023 (link available [here](#)); Labour Party, "*Change – Labour Party Manifesto 2024*", page 30 (link available [here](#)).

<sup>15</sup> See Parties' Response to the Notice of Possible Remedies, 27 September 2024, paragraph 4.7(iii) (link available [here](#)).

<sup>16</sup> See Provisional Findings, paragraph 5.9

<sup>17</sup> See Provisional Findings, paragraph 14.22.

- 3.6 VMO2 agrees that the provisions set out in the Beacon 4.1 Agreements are consistent with enabling the delivery of the JBP. The Beacon 4.1 Agreements were designed to enable VUK and 3UK to deliver the JBP, a credible integration plan reflecting detailed due diligence and a significant investment of time and resources by the Parties.<sup>18</sup> Throughout the Beacon 4.1 negotiations, the Parties have been intently focussed on the need to ensure that they are able and incentivized to deliver the JBP. This intent is reflected in the Beacon 4.1 Agreements, which lay out a joint deployment programme for capacity upgrades, alongside the national deployment of MergeCo's multi-operator core network arrangement ("MOCN") solution.<sup>19</sup> The joint deployment programme was created to support the implementation of the JBP, alongside VMO2's concurrent demand for capacity upgrades.
- 3.7 The key elements of the JBP are reflected in the Beacon 4.1 Agreements through (among other things): [REDACTED].
- 3.8 The conduct of the Parties is, therefore, consistent with them having an incentive to deliver the full JBP (as also shown by their willingness to offer a binding Investment Commitment).<sup>20</sup> VMO2 therefore considers that the benefits arising from full delivery of the JBP should be taken into account by the CMA in its competitive assessment or, alternatively, its evaluation of whether the Investment Commitment remedies, mitigates or prevents the provisional SLCs.
- 3.9 In any event, VMO2 agrees with the CMA's conclusion that the delivery of the 'Day 1' benefits by MergeCo through a combination of MOCN, deployment of additional spectrum through sharing of the Parties' combined holdings, and site densification relative to either Party's standalone networks will also result in rivalry-enhancing network quality improvements.<sup>21</sup> Moreover, VMO2 agrees that such benefits are REEs on the basis that they are sufficiently timely, merger-specific and benefit customers in the UK.<sup>22</sup>

---

<sup>18</sup> See Provisional Findings, paragraph 14.180.

<sup>19</sup> See [REDACTED].

<sup>20</sup> See Parties' Response to the Notice of Possible Remedies, 27 September 2024, section 4.

<sup>21</sup> See Provisional Findings, paragraph 14.192.

<sup>22</sup> See Provisional Findings, paragraphs 14.197 and 14.245.

**The Merger will transform VMO2’s network capacity and quality, making it a stronger rival**

- 3.10 VMO2 welcomes the CMA’s acknowledgement that the spectrum transfer agreed through Beacon 4.1 will provide a notable and rapid increase in network quality for wholesale and retail customers on the VMO2 network, and that the network quality improvements are likely to occur within the short- to medium-term.<sup>23</sup> VMO2 has concrete plans to make use of the newly acquired spectrum, [REDACTED]<sup>24</sup> and has agreed provisions to incentivise MergeCo to release the spectrum as quickly and efficiently as possible.<sup>25</sup> VMO2 cannot achieve such a step-change in its network, and deliver better services to its customers, without the Merger and Beacon 4.1 Agreements. VMO2 therefore agrees with the CMA that the network quality improvements as a result of the spectrum transfer meet the criteria for REEs.<sup>26</sup>
- 3.11 VMO2 is concerned that the CMA has not taken account of the fact that the spectrum transfer will also significantly increase the capacity of its network. As the CMA has recognised, the capacity of mobile networks is affected by factors including the amount of spectrum available to an operator and the number of sites an operator has.<sup>27</sup> The additional [REDACTED] of spectrum to be transferred to VMO2 represents an increase of [REDACTED]% in VMO2’s spectrum assets. With such a substantial increase in VMO2’s spectrum and a committed plan to deploy this spectrum, VMO2’s customers will benefit from a major upgrade in network capacity, with over [REDACTED]% more network capacity by 2029.<sup>28</sup>
- 3.12 Moreover, the Beacon 4.1 Agreements provide a process for VMO2 to [REDACTED] join additional 3UK sites.<sup>29</sup> As the CMA has recognised “*the Merged Entity intends to integrate c. 5,000 existing 3UK sites into the Beacon network in the MORAN areas and VMO2 will have the right to place demand on all of those sites*”.<sup>30</sup> This will give VMO2 the opportunity to access around [REDACTED]% more sites in MORAN areas, compared to the current Beacon site grid. There are strong financial incentives on MergeCo to ensure that such sites can be accessed by VMO2, together with obligations on MergeCo.<sup>31</sup> [REDACTED].<sup>32</sup> [REDACTED].
- 3.13 The Merger and Beacon 4.1 Agreements will bring forward the rollout of 5G SA and associated economic benefits. The CWP is [REDACTED] delivery plan covering around [REDACTED] of the network, which is aimed at synergising the deployment of new equipment across the shared MORAN areas by [REDACTED]. [REDACTED]. The CWP creates efficiencies for VMO2 in network deployment and operations, [REDACTED]. The net effect of having a consolidated program of works is to bring forward site upgrades, delivering additional capacity significantly in advance of when it would otherwise have been rolled out absent the Merger.<sup>33</sup>

---

<sup>23</sup> See Provisional Findings, paragraphs 14.193, 14.198 and 14.203.

<sup>24</sup> See VMO2 Response to CMA RFI.

<sup>25</sup> See Provisional Findings, paragraph 10.76(a) and 14.197.

<sup>26</sup> See Provisional Findings, paragraph 14.198.

<sup>27</sup> See Provisional Findings, paragraph 8.284(b).

<sup>28</sup> See also VMO2 Response to CMA RFI.

<sup>29</sup> See [REDACTED].

<sup>30</sup> See Provisional Findings, paragraph 10.10(a)

<sup>31</sup> [REDACTED].

<sup>32</sup> [REDACTED].

<sup>33</sup> See VMO2 Incentives Submission.

- 3.14 Consistent with the above, the efficiencies from the CWP are accentuated by the spectrum transfer, as VMO2 and MergeCo will have many common bands and will thus be able to benefit from similar network equipment deployment. MergeCo has strong incentives to achieve its own synergies from integrating the VUK and 3UK networks, and VMO2 is able to benefit from this and thus achieve greater certainty of its ability to add capacity quickly to the existing Beacon grid.
- 3.15 By unlocking cost-efficient roll-out, the Beacon 4.1 Agreements are a key enabler of 5G SA rollout. The main bands used for 5G today are 700MHz and 3400-3800MHz. [X]. One of the key features of 5G SA is that it will enable VMO2 to use its spectrum more efficiently. This means that for each MHz of spectrum deployed on a site, VMO2 will be able to support more customers and traffic, thereby further increasing the amount of capacity available on the market.<sup>34</sup>

#### **BTEE will respond to the increased rivalry by investing in its network**

- 3.16 Not only will the improvement in capacity and network quality benefit the millions of customers utilising VMO2's or MergeCo's network, but it will also drive BTEE to invest further in its network. BTEE has for many years enjoyed a position of unassailable network leadership, recognised by independent sources as "*the UK's best network 21 times in a row*", "*the UK's most reliable network*", "*the UK's fastest network*", "*the UK's best network for mobile gaming*", "*the UK's best network for video performance*", and "*the UK's best network for calls, data, and accessibility*".<sup>35</sup> With a brand built on network speed and the largest spectrum portfolio of current MNOs,<sup>36</sup> BTEE will continue to look to lead on network performance and will have the ability and incentive to invest to surpass MergeCo and VMO2. As such, all UK customers should receive the benefit of an uplift in network quality and capacity as a direct result of the Merger. This benefit would not come about absent the Merger.

## **4 THE EFFICIENCIES WILL OUTWEIGH ANY POTENTIAL HARMS IN THE RETAIL AND WHOLESALE MARKETS**

- 4.1 The REEs which will be delivered by the Merger together with the Beacon 4.1 Agreements will be sufficient to countervail the adverse competitive effects provisionally identified by the CMA in the retail and wholesale mobile markets.

#### **Prices cannot realistically increase in a market characterised by rapidly expanding network capacity**

- 4.2 The Merger and Beacon 4.1 Agreements will result in a substantial increase in network capacity on VMO2's network and the merged network over the next few years. In a market with rapidly expanding network capacity, it is not realistic that operators will be able to increase prices to consumers, as the CMA has suggested. On the contrary, operators will be incentivised to compete *more aggressively* for both retail and wholesale customers to fill their additional network capacity. To win new customers,

---

<sup>34</sup> See VMO2 Response to CMA RFI.

<sup>35</sup> See Marc Allera, EE CEO, "*EE named the UK's best mobile network 21 times in a row – What does it mean for you?*", 29 January 2024 (link available [here](#)).

<sup>36</sup> See Provisional Findings, paragraph 5.70.

mobile providers will need to offer attractive propositions for every segment of the market (including vulnerable consumers).

### **Improved network quality will translate into improved customer propositions**

- 4.3 By increasing VMO2's network capacity, the arrangements will also translate directly into improved network quality and customer experience. [REDACTED],<sup>37</sup> [REDACTED].<sup>38</sup> The spectrum transfer will mean that post-Merger customers experience significantly higher download speeds on the VMO2 network and improved customer experience.<sup>39</sup>
- 4.4 Surveys and analysis submitted by VMO2 to the CMA show that network quality is an important feature across the entirety of a customer's lifecycle, from acquisition to churn.<sup>40</sup> For most customers, 'connectivity' does not mean – or does not primarily mean – speed. Rather, and more fundamentally, connectivity means *reliability*, the ability to trust a mobile service provider to consistently deliver a strong network, in order to satisfy a wide range of life needs.<sup>41</sup> VMO2's analysis shows that [REDACTED]. VMO2's analysis demonstrates that the additional spectrum will enable VMO2 to compete effectively across all geographic footprints, including MORAN areas, unwind areas and London.<sup>42</sup>
- 4.5 Moreover, the increase in network capacity will enable VMO2 to offer improved customer propositions. Without the current capacity constraints, a number of customer propositions designed to meet the growing demand for access to reliable mobile services will become achievable for VMO2, including:<sup>43</sup>
- (a) [REDACTED].
  - (b) [REDACTED].
  - (c) [REDACTED].
  - (d) [REDACTED].
  - (e) [REDACTED].
  - (f) [REDACTED].
  - (g) [REDACTED].

---

<sup>37</sup> See [REDACTED].

<sup>38</sup> See [REDACTED].

<sup>39</sup> See Provisional findings, paragraph 14.203.

<sup>40</sup> See VMO2 Spectrum Submission.

<sup>41</sup> See VMO2 Spectrum Submission.

<sup>42</sup> See VMO2 Spectrum Submission.

<sup>43</sup> See VMO2 Spectrum Submission.



**Benefits arising from the Beacon 4.1 Agreements will [REDACTED] flow to Tesco Mobile and Sky Mobile**

- 4.6 Improvements to VMO2's network capacity and quality will also [REDACTED] benefit Tesco Mobile and Sky Mobile, improving the customer experience of their c. 8 million subscribers and enhancing their ability to compete. [REDACTED]. [REDACTED]. [REDACTED],<sup>44</sup> [REDACTED].
- 4.7 [REDACTED].<sup>45</sup> [REDACTED].<sup>46</sup> [REDACTED].<sup>47</sup> [REDACTED].<sup>48</sup> [REDACTED].
- 4.8 [REDACTED].<sup>49</sup> [REDACTED].<sup>50</sup> [REDACTED].<sup>51</sup>
- 4.9 [REDACTED]<sup>52</sup> [REDACTED].<sup>53</sup> [REDACTED],<sup>54</sup> [REDACTED].

**Competition on the wholesale market will significantly increase**

- 4.10 At the wholesale level, the significant increase in network capacity and quality due to the Beacon 4.1 Agreements will make VMO2 an even more effective and attractive partner for VMO2's existing and prospective wholesale customers. VMO2 welcomes the CMA's recognition that the Beacon 4.1 Agreements will address this structural weakness in VMO2's wholesale competitiveness, as it "*will improve VMO2's network quality, enabling it to become a stronger competitive constraint post-Merger.*"<sup>55</sup> As the CMA is aware, [REDACTED], VMO2 has already lost a number of MVNOs, including Lyca Mobile.
- 4.11 However, VMO2 disagrees with the CMA's provisional conclusion that VMO2 "*may have a reduced incentive to act on this ability as a result of the removal of the constraint which the Parties currently exert.*"<sup>56</sup> On the contrary, this additional capacity will strongly incentivise VMO2 (and MergeCo) to offer competitive access terms and pricing to fill the additional network capacity, and recoup the investment made in acquiring the spectrum and deploying it as part of the CWP. While the CMA recognises the link between additional capacity and wholesale pricing (where it notes evidence that, among other factors, "*the incremental cost of capacity is taken into account in bidding*"<sup>57</sup>), this acknowledgment is only partial. As with dynamics on the retail market, it is not realistic to consider that operators would compete *less* in a market with rapidly expanding network capacity.

---

44 See Provisional Findings, paragraph 9.264(d).

45 See [REDACTED].

46 See [REDACTED].

47 See [REDACTED].

48 See [REDACTED].

49 See [REDACTED].

50 See [REDACTED].

51 See [REDACTED].

52 See VMO2 Response to CMA RFI.

53 See [REDACTED].

54 See [REDACTED].

55 See Provisional Findings, paragraph 9.267.

56 See Provisional Findings, paragraph 9.268(g).

57 See Provisional Findings, paragraph 14.145.

- 4.12 MVNOs are a highly attractive way to bring additional traffic to mobile networks and competition to attract MNVOs will remain strong. Successful MVNOs, such as Sky Mobile, Tesco Mobile, Lebara, Lyca Mobile and many others have well-established distribution and customer service, which attract customers that VMO2 (and other host MNOs) would not otherwise serve. [§].<sup>58</sup> MVNOs are instead an attractive source of incremental revenue.
- 4.13 Moreover, as wholesale negotiations are non-transparent tendering processes, MVNOs have substantial buyer-power, as MNOs have no visibility of competing offers. This competitive tension will be significantly increased post-Merger, as there will be three equally strong MNOs that will be capable of competing for wholesale customers. On the contrary, today there is only one strong player (BTEE) that can credibly compete for wholesale business, another two (VMO2 and Vodafone) that are evidently lagging behind due to capacity constraints, and a fourth (3UK) which “cannot be characterised as a key player when MVNOs are not prepared to be hosted on the network”.<sup>59</sup>

## 5 CONCLUSION

- 5.1 Robust and effective competition in the mobile market has delivered significant benefits to UK consumers and businesses. In the face of the unparalleled investment demands facing mobile network operators, the Merger and Beacon 4.1 Agreements provide a credible path forward to meet these investment challenges while preserving effective competition. With increased network capacity, coverage and quality from the spectrum divestment, VMO2 will have the ability and incentive to compete vigorously with MergeCo, BTEE and the many MVNOs active on the market. VMO2 cannot achieve such a step-change in its network, and therefore deliver better services to its customers, without the structural measures in the Beacon 4.1 Agreements. VMO2 is, therefore, confident that the Merger together with the Beacon 4.1 Agreements will bring significant benefits to UK consumers and businesses. Nevertheless, should the CMA remain of the opinion that there is an SLC to address, VMO2 considers that the remedies proposed by the Parties,<sup>60</sup> will effectively guarantee the relevant customer benefits and REEs promised by the Merger.

---

<sup>58</sup> See VMO2 Response to CMA RFI.

<sup>59</sup> See Parties' Response to the Notice of Possible Remedies, 27 September 2024, paragraph 6.6.

<sup>60</sup> See Parties' Response to the Notice of Possible Remedies, 27 September 2024, paragraphs 1.6-1.13.