Linklaters

20 July 2026

CASE ME/7146/26

ANTICIPATED ACQUISITION BY LIBERTY GLOBAL, TELEFÓNICA AND INFRAVIA (THROUGH THEIR JOINT VENTURE, NEXFIBRE) OF SUBSTANTIAL

Parties’ response to the CMA’s Areas of Focus document

1 Introduction and Executive Summary

(1) This submission sets out Opal JVco Limited ("**nexfibre**"), and Substantial TopCo Limited and its subsidiary undertakings' (together, "**Substantial**" or the "**Target**") (and all together, the "**Parties**" or the "**Merged Entity**") joint response to the CMA's Areas of Focus document published on 7 July 2026.

(2) The Parties submit that, as explained in this submission and supported by compelling evidence, the anticipated acquisition of Substantial by nexfibre and the transfer of a part of Substantial's business (including the retail internet service providers ("**ISPs**")) to VMED O2 UK Limited ("**VMO2**") (together, the "**Transaction**") does not result in a substantial lessening of competition (an "**SLC**") on any plausible basis. To the contrary, the Transaction is pro-competitive: it will unlock £3.5 billion of investment in the UK, create a more effective and financially sustainable challenger to the dominant BT/Openreach and deliver significant rivalry-enhancing efficiencies ("**REEs**") and relevant customer benefits ("**RCBs**") that will drive significant benefits for both wholesale and retail customers. This supports the UK Government's and Ofcom's stated objectives for nationwide gigabit-capable connectivity to support the economic growth agenda, benefiting UK consumers and businesses.

1.1 The Transaction will create effective and sustainable competition to BT/Openreach, resulting in better wholesale and retail outcomes

(3) As clearly recognised by Ofcom in its Telecoms Access Review 2026–2031 ("**TAR**"), the nature of the fixed broadband market means that retail ISPs incur significant costs (both upfront and ongoing) when integrating with and accessing third-party wholesale networks to provide their consumer offering. For retail ISPs to justify incurring these material costs to contract with a Wholesale Local Access ("**WLA**") provider other than BT/Openreach, wholesalers need to offer sufficient scale to make integration economically feasible.

(4) nexfibre and Substantial have not secured any third-party wholesale customers to date,[1] despite significant efforts to do so. Moreover, absent the Transaction, neither could have credibly achieved the requisite scale and financial position to make them sufficiently attractive to ISPs to deliver effective and financially sustainable competition to BT/Openreach.

(5) More specifically as explained in Section 3 below, the Parties consider the most likely conditions of competition absent the Transaction to be that:

(i) Netomnia would not become a credible, material WLA provider in the counterfactual due to its lack of scale, its constrained average revenue per user on a monthly basis ("**ARPU**"), strong ISP bargaining power (which prevents Netomnia from being able to secure volume commitments and contractual protections, shifting risk from the ISPs to Netomnia), and market uncertainty, including most recently due to the latest Openreach/Equinox pricing scheme. The realistic counterfactual is, therefore, Netomnia as a more constrained, vertically integrated and retail-led operator focused on monetising a network footprint of approximately 3.4 million premises through YouFibre, **[REDACTED]**, no viable scaled wholesale route, **[REDACTED]**[2]

(ii) **[REDACTED]**

[1] Excluding VMO2 which is the anchor tenant wholesale customer of nexfibre.

[2] **[REDACTED]**

(iii) **[REDACTED]**

(6) Furthermore, the prevailing conditions in the altnet sector are those of market retrenchment, limited network roll-out and financial distress, leading to scale back of build programmes (challenges only exacerbated by BT/Openreach's latest pricing offers). Absent timely consolidation, the imperative for which has been widely recognised as necessary in the industry[3] and by Ofcom,[4] there is a very real risk of widespread failure and the attendant risks to continuity of service for customers as evidenced by market analysts.[5]

(7) The Transaction occurs against this backdrop of **[REDACTED]**, VMO2's **[REDACTED]** capital constraints **[REDACTED]** and intensifying distress in the altnet sector. Significantly, the Parties believe that there is a limited and narrowing window to unlock genuine wholesale competition in the UK. Given BT/Openreach's strategy of cementing its market dominance through a combination of rapid FTTP roll-out, pricing policies resulting in a squeeze, emerging competition and a drive to place Optical Network Units ("**ONUs**") into customers' homes to leverage the structural advantage for the first installer and raise barriers to switching (e.g. longer and more costly activation due to a new ONU installation being required).[6] The longer that consolidation is delayed, the harder it will be for genuine competition to emerge.

(8) In summary, absent the Transaction there would not be any meaningful wholesale competition between Substantial and nexfibre/VMO2. Moreover, BT/Openreach would continue to occupy a position of increasingly unassailable market dominance, underpinned by entrenched ISP relations, its ubiquitous wholesale network and aggressive pricing strategies. As BT's CEO Allison Kirkby confidently asserted recently: "*[w]e feel that we're going to be the only provider of fibre nationwide.*"[7]

(9) By enhancing the competitive potential of Substantial and nexfibre's networks compared to the counterfactual, the Transaction will unlock an effective and financially sustainable national scale competitor to BT/Openreach, enhancing wholesale competition to the benefit of all ISPs and retail consumers.

1.2 The Transaction is pro-competitive and will deliver meaningful benefits for wholesale and retail customers

(10) The Parties welcome the CMA's intention to assess the Parties' REE claims as part of its Phase 2 inquiry.[8] As set out in further detail in Section 2 below, the Transaction will bring about substantial REEs and customer benefits.

(11) The magnitude of the REEs delivered by the Transaction is substantial. The Parties' quantification analysis demonstrates that the efficiencies and benefits delivered by the Transaction may be expected to deliver savings of up to £[100-200] **[REDACTED]** million

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[3] See, by way of example, Enders Analysis — "Altnets in the UK: Consolidation endgame" (26 June 2025): "The consolidation endgame is increasingly imminent": "Much more consolidation is required for the sector to be sustainable in our view…".

[4] Ofcom has recognised that consolidation may lead to a greater competitive restraint to BT/Openreach, stating in the TAR that: "*consolidation may lead to an increase in scale and result in a consolidated entity which may be able to exert a stronger competitive constraint in the market than pre-consolidation.*" TAR Volume 2, paragraph 4.110(e).

[5] See, by way of example, Enders Analysis, "Altnets in the UK: Consolidated Endgame" (26 June 2025): *"…the risk of abandoned assets is substantial, particularly for smaller altnets …. the business case even for acquiring new customers is fairly weak on a standalone basis, so they will not necessarily continue even after all debt has been written off."*

[6] **[REDACTED]** See also Annex LL_nexfibre_00000006, page 68.

[7] "*BT boss shrugs off challenge of rival*", The Times, 27 May 2026.

[8] CMA Areas of Focus, paragraph 39.

by Year 5 post-Transaction, and up to £[500-600] **[REDACTED]** million by Year 10 post-Transaction, which is the equivalent to up to £[30-40] **[REDACTED]** per customer per year as of Year 10 post-Transaction. It is expected that this will lead to up to £[200-300] **[REDACTED]** million of savings through to end consumers in the form of lower retail prices by Year 10.

(12) The Transaction delivers the following principal REEs and RCBs:

- First, the creation of a national challenger to BT/Openreach will unlock wholesale competition for the first time in the UK, in a way and within a timeframe which would not be possible in a timely way, or indeed at all, absent the Transaction. This will deliver material cost savings for third-party ISP customers, who will be willing to join the Parties' wider and financially sustainable footprint.
- Second, the enhanced wholesale platform of nexfibre (including via the jointly marketed proposition with VMO2) will unleash dynamic competitive pressure on BT/Openreach to continue to invest to improve its product offering and deliver lower prices and improved quality.
- Third, the creation of sustainable wholesale competition and discounted wholesale prices will strengthen retail competition, with compelling real-world evidence that these benefits will be passed on to retail customers due to the intensity of retail competition.
- Fourth, the Transaction will make FTTP technology available to a greater number of customers and accelerate migration from Hybrid Fibre Coaxial ("**HFC**") to FTTP. FTTP is a superior technology offering improved reliability, faster speeds and lower energy consumption, and this, therefore, represents a clear customer benefit.

(13) In summary, the Transaction will not result in an SLC on any plausible basis (for the reasons outlined below), and it will unlock substantial, merger-specific REEs and customer benefits that are timely, likely and sufficient to strengthen wholesale and retail competition in the UK, with direct and material benefits for UK customers.

1.3 The Transaction will not give rise to an SLC on any plausible basis

No SLC in the wholesale market

(14) The Transaction does not give rise to an SLC on any plausible basis in relation to WLA, for the following key reasons:

(15) First, as explained above, absent the Transaction there would be no meaningful wholesale competition between Substantial and nexfibre. The Parties do not have a credible and timely path to achieving scale via organic growth which would make them more attractive wholesale partners to ISPs.

(16) Second, competition in the wholesale market is fundamentally national in nature. Commercial negotiations between WLA suppliers and customers (including in respect of framework agreements) occur across a suppliers' entire footprint; a scaled geographic footprint is therefore a key competitive parameter, and parameters of wholesale competition are set nationally and applied uniformly across geographic areas.

(17) Third, no SLC arises on a national basis given that:

(i) *BT/Openreach has unparalleled scale advantages and market dominance*. BT/Openreach's position in this market is unique: it is an unavoidable trading partner for all ISPs, with significant incumbency advantages, and its pricing schemes act as a benchmark for all WLA providers. BT/Openreach's aggressive pricing schemes through Equinox 1, Equinox 2 and its latest pricing offers (which BT/Openreach itself has stated will "test the waters") have been employed in a strategic manner to apply significant pressure on potential competing providers. BT/Openreach has a WLA share of 69% (including self-supply) and 92% (excluding self-supply).[9]

(ii) *Market shares evidence a lack of concern*. There is no overlap between the Parties in relation to wholesale to third-party ISPs. The Parties have zero third-party retail ISP customers[10] and hence a zero share if self-supply is excluded. Even accounting for self-supply conservatively, the Parties' WLA shares are modest nationally (at [20-30] **[REDACTED]**% with a *de minimis* [0-5] **[REDACTED]**% increment arising from Substantial).

(iii) *The Transaction does not prevent other altnets (such as CityFibre, Community Fibre and Hyperoptic) from gaining scale* given that the Parties will have only a moderate share of supply in the WLA market (even on a conservative basis including self-supply) and Substantial does not have a material or unique market position. CityFibre's assertion that the deal will create an "ineffective duopoly" is clearly belied by its own public statements which burnish its strong growth credentials and M&A pipeline.[11] **[REDACTED]**

(18) Fourth, without prejudice to the primary point that WLA competition is inherently national, no concerns arise locally. The FTTP overlaps arising from the Transaction are limited in comparison to the Parties' footprints and insignificant when considered nationally. They are also geographically dispersed, and primarily relate to technologies which are not comparable in nature (i.e. in respect of VMO2's legacy HFC network). In these limited and dispersed local overlap areas, Netomnia's network coverage is partial, with material coverage gaps in which BT/Openreach is currently the only wholesale operator. **[REDACTED]** there is, therefore, no expectation of a material increase in FTTP overlaps in the near future irrespective of the Transaction.

(19) Finally, the substantial REEs that the Transaction generates will enhance wholesale competition and would (in any event) offset/outweigh any hypothetical harm arising from a loss of competition on any plausible basis.

No SLC in the retail market

(20) The Transaction does not give rise to an SLC on any plausible basis in relation to retail broadband:

(21) *First*, the retail market is national, consistent with past CMA decisional practice. The major ISPs (i.e. BT, VMO2, TalkTalk, Sky and VodafoneThree), which together hold an approximately 86% combined market share, mostly operate on a nationwide scale, along with a collective competitive constraint from a myriad of smaller ISPs and altnets. For the large ISPs, retail pricing, customer service quality, reliability and brand reputation are all set predominantly on a national basis.

9 The Parties note that Wholesale Local Access ("**WLA**") and retail shares have been updated with VMO2's more recent internal estimates (representative as of December 2025). Thus, there are slight discrepancies with Tables (XII) and (XIII) in the Final Merger Notice submitted on 29 June 2026 ("**FMN**"), which uses data from points throughout 2025.

10 Treating VMO2 as self-supply for these purposes (noting that it is independent of nexfibre).

11 See Annex 1.002 to the FMN.

(22) *Second*, retail broadband is characterised by intense competition from major ISPs. Large ISPs such as VodafoneThree, Sky, BT and TalkTalk who use BT/Openreach's network either predominantly or exclusively are highly aggressive and provide a strong competitive constraint (alongside other smaller ISPs and altnets). YouFibre's presence is insignificant and the Parties' combined national share is modest at [20-30] **[REDACTED]**% (with a *de minimis* [0-5] **[REDACTED]**% increment arising from YouFibre).[12]

(23) *Third*, VMO2 offers a differentiated proposition from YouFibre: VMO2 generally focuses on a premium proposition with a focus on one-stop-shop bundles, including mobile services and a wide variety of entertainment packages. Conversely, YouFibre offers a narrower, speed-focused fibre proposition over a much smaller footprint. Real world evidence from VMO2's competitor monitoring and pricing policies evidences the lack of closeness of competition. YouFibre is not unique in its pricing proposition, as the evidence indicates that its pricing is broadly comparable to that of other FTTP providers (including ISPs using Openreach's network). Openreach's FTTP network already overlaps the Parties in circa 90% of overlap areas and is expected to overbuild these areas entirely.[13] Accordingly, VMO2 would remain subject to strong competitive constraints from ISPs using Openreach's FTTP network in these areas post-Transaction.

(24) *Fourth*, the competitive significance of altnets such as YouFibre (already limited) would have been reduced further in the counterfactual, **[REDACTED]**.

(25) *Finally*, any hypothetical marginal reduction of retail competition will be offset by the REEs outlined above, which will flow through to competition at the retail level.

No SLC as a result of interlinkages between wholesale and retail competition

(26) The CMA is correct to recognise the important link between the wholesale and retail levels of the supply chain for broadband. The Parties' case is that the creation of sustainable wholesale competition via the Transaction will strengthen retail competition, with the benefits passed on to retail customers due to the intensity of retail competition.

(27) nexfibre – which is not vertically integrated – will have strong incentives to compete at the wholesale level post-Transaction by offering attractive terms to ISPs:

(i) nexfibre is a wholesale-only player with a commercial imperative to actively wholesale to ISPs and to maximise utilisation of its FTTP network. It is independent from, and has an arm's-length relationship with, VMO2. InfraVia, as an independent co-controlling shareholder in nexfibre, has no economic interest at the retail level and its sole focus is in maximising nexfibre's wholesale revenues.

(ii) The entire Transaction rationale and business plan are predicated on building a scaled wholesale platform capable of credibly challenging BT/Openreach, and on actively wholesaling to third-party ISPs (including ISPs that compete with VMO2 at retail) on attractive terms. InfraVia's approximately £1 billion investment is a pure-play wholesale investment with no retail exposure, and its investment thesis is entirely dependent on onboarding third-party ISPs on competitive terms. It is not realistic to think that InfraVia would let its commercial interests be undermined and allow nexfibre to totally or partially foreclose VMO2's competitors.

[12] Treating VMO2 as self-supply for these purposes (noting that it is independent of nexfibre).

[13] Based on the Parties' internal footprint data and May 2026 Point Topic availability data.

(iii) A quantification analysis supports the compelling real-world evidence of nexfibre's clear incentives to wholesale its network post-Transaction (for completeness, it is noted that the same is true of VMO2).

CMA is correct to deprioritise leased lines

(28) Finally, the Parties agree with the CMA's decision not to focus on leased line access ("**LLA**").[14] Netomnia has only *de minimis* activities (**[REDACTED]**%) in the supply of LLA, having only recently entered this market. BT/Openreach is the clear dominant operator. Ofcom's TAR suggests that BT/Openreach has an estimated share of at least between 68% and 77% nationally. This position will not be impacted by the Transaction. Conversely, given the economies of scope between the provision of leased line services and residential broadband (which Ofcom recognised in its TAR), nexfibre will have a strong incentive to extend the availability of leased line services onto the Target's fibre footprint post-Transaction, enhancing competition in this space to the benefit of UK businesses.

2 The Transaction is pro-competitive and delivers meaningful benefits for wholesale and retail consumers

(29) The Transaction is fundamentally pro-competitive, unlocking benefits for wholesale and retail broadband customers throughout the UK.

(30) Whilst there is a broader range of efficiencies and benefits generated by the Transaction, just the quantifiable wholesale price reductions may be expected to deliver substantial cost savings of up to £[100-200] **[REDACTED]** million by Year 5 post-Transaction, and up to £[500-600] **[REDACTED]** million by Year 10 post-Transaction, which is the equivalent of up to £[30-40] **[REDACTED]** per customer per year. It is expected that this will also lead to lower retail prices of between £[30-40] – [70-80] **[REDACTED]** million by Year 5 and £[80-90] – [200-300] **[REDACTED]** million by Year 10, at a conservative **[REDACTED]**% pass-on rate. There are also additional significant relevant benefits that will be felt by customers as a result of the Transaction that are not quantifiable (see further details below).

(31) These reinforce the pro-competitive rationale of the Transaction enhancing the competition generating tangible benefits for ISPs and retail consumers (in terms of price, quality and choice), as well as promoting growth in the wider UK economy.[15]

(32) The Transaction benefits directly support the UK Government's ambitions to improve growth and productivity[16] by directly enabling faster and scaled-up fibre roll-out, thereby enabling more businesses and residential customers to access faster broadband speeds more quickly. The accelerated cable-to-fibre upgrades and denser FTTP footprint directly advance the UK Government's Project Gigabit connectivity targets and Ofcom's regulatory objectives for gigabit-capable networks by 2030. There is also a growing and substantial body of evidence highlighting the importance of faster broadband speed for economic growth with new technologies emerging that can exploit greater speeds.[17]

2.1 The REEs unlocked by the Transaction are inherent to the deal rationale and investment thesis

[14] See the CMA's Areas of Focus document published on 7 July 2026, fn 4.

[15] FMN, paragraph 5; and the All Parties Pre-Notification CMA Teach-in, slide 22.

[16] See e.g. Digital and Technologies Sector Plan: Year One Update - GOV.UK.

[17] See FMN, paragraph 23 for further detail.

(33) A fundamental driver of the Transaction is to create a scaled network that can compete more effectively with BT/Openreach. This is clearly evidenced in the Parties' internal documents, their public press statements and the investment thesis (including the central basis for InfraVia's circa £1 billion equity investment into nexfibre). At a critical moment for the altnet sector, the Transaction will unlock £3.5 billion worth of investment to create the first scaled UK-wide network to meaningfully challenge BT/Openreach.[18] Absent the Transaction, as explained in Section 3 below, the Parties lack sufficient fibre scale, financial sustainability and growth prospects to credibly constrain BT/Openreach (which is acting to cement its market dominance).

(34) The Transaction delivers these scale effects through three distinct but complementary mechanisms:

(i) First, it merges nexfibre and Netomnia's existing FTTP networks to create a larger combined FTTP footprint. The Transaction will immediately add an expected circa 3.1 million premises (reflecting Netomnia's fibre footprint and the net of the limited FTTP overlap with nexfibre) to nexfibre's existing combined FTTP footprint.[19]

(ii) Second, it secures funding for and incentivises nexfibre to upgrade 2.1 million HFC premises to FTTP **[REDACTED]**[20] These 2.1 million premises are selected **[REDACTED]**.

(iii) **[REDACTED]**

(35) The result is that the enlarged nexfibre will have an FTTP footprint of 7.9 million premises, reaching circa 25% of UK premises. For nexfibre, this represents a circa **[REDACTED]**% uplift in footprint from 2.6 million premises, allowing ISP customers to spread their fixed integration costs across a greater footprint and reducing the fixed integration cost per premise by circa 26% for retail ISPs. Considered in conjunction with the VMO2 FTTP footprint (which is being marketed as a joint commercial proposition), nexfibre's wholesale platform will reach 11.2 million premises post-Transaction (and **[REDACTED]** million premises following the completion of VMO2's planned Fibre Up programme, which will be de-risked by the Transaction). This equates to a circa 67% uplift in footprint, reducing the fixed integration cost per premise by circa 40% for retail ISPs.

(36) Real-world evidence has demonstrated the enhanced attractiveness of nexfibre's proposition for ISPs. **[REDACTED]** This demonstrates that the Parties' combined and scaled FTTP network post-Transaction could offer a compelling wholesale opportunity vis-à-vis BT/Openreach.[21]

2.2 The REEs and RCBs are substantial

(37) The Transaction will deliver the following key REEs and/or RCBs with **significant** benefits for wholesale and retail customers throughout the UK.

(38) **Increased competition at the wholesale level**: The three complementary scaling mechanisms noted above have the effect of providing a materially more attractive and competitive wholesale proposition for third-party ISPs.[22] This will create credible and

[18] FMN, paragraph 5; and the All Parties Pre-Notification CMA Teach-in, slide 18.

[19] Net of the overlap premises, the expected net add is circa 2.4 million (as per paragraph 16 of FMN).

[20] See FMN, paragraphs 16-17, 933-934.

[21] Submission on the relevant buy-side counterfactual ("**Buy-side Counterfactual Paper**"), paragraph 25.

[22] FMN, paragraph 16; See Quantification of Pro-Competitive Efficiencies, Sections 2.2-2.3.

sustainable competition for the first time in the UK at the wholesale level. As such, more ISPs will onboard onto the combined network post-Transaction and will benefit from lower prices and higher quality across a wider geographic footprint (without any commensurate increase in network integration costs).[23] This would, in turn, give rise to a direct quantifiable efficiency in the form of lower wholesale prices on the (larger) Merged Entity's network, resulting in savings of up to £[100-200] **[REDACTED]** million by Year 5 and £[500-600] **[REDACTED]** million by Year 10 post-Transaction.[24]

(39) **Enhanced dynamic wholesale competition:** The creation of genuine competitive pressure in the wholesale market will result in dynamic rivalry benefits at the wholesale level as BT/Openreach responds to an enhanced competitive constraint from the Parties, including in terms of price reductions, quality improvements and increased range of products and services. Benefits to broadband customers from a reduction in BT/Openreach's prices would be material. A **[REDACTED]**% price reduction from Openreach is estimated to have a benefit of circa £[30-40] **[REDACTED]** million annually; this could increase to closer to circa £[100-200] **[REDACTED]** million annually assuming a **[REDACTED]**% price reduction.[25]

(40) **Strengthened retail competition:** the creation of sustainable competition and discounted prices at the wholesale level will, in turn, strengthen competition at the retail level, having a rivalry-enhancing effect on all areas encompassed by nexfibre's wholesale proposition post-Transaction. In particular, where ISPs realise better wholesale prices, there is compelling real-world evidence[26] that, given the intensity of retail broadband competition, they will use those to aggressively compete for retail customers.[27] The Parties' quantification analysis models consumer savings at both a conservative 50% pass-on rate and a 100% pass-on rate. Applying a conservative pass-on rate to wholesale price savings above, retail consumer savings are estimated to be up to £[70-80] **[REDACTED]** million by Year 5 and £[200-300] **[REDACTED]** million by Year 10 post-Transaction. [28]

(41) **Accelerated migration from HFC to FTTP improving quality for retail customers:** Specifically, the Transaction results in VMO2 paying a **[REDACTED]** wholesale fee to nexfibre for any consumers using HFC in premises where the Merged Entity has FTTP available, either through Netomnia's footprint or the expansion to 2.1 million premises planned under **[REDACTED]**. The fact that VMO2 will pay this fee, together with incurring the costs of operating and maintaining its HFC network, means that VMO2 is incentivised and expected to accelerate fibre uptake by existing VMO2 customers within a FTTP footprint covering circa 4.5 million premises. Analogous arrangements have been used in other European markets to manage this technological change in a financially sustainable way.[29]

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[23] See Quantification of Pro-Competitive Efficiencies, Sections 2.2 and 3.

[24] See Quantification of Pro-Competitive Efficiencies, Table 3.

[25] See Quantification of Pro-Competitive Efficiencies, Section 5.

[26] Price evidence from Sky, VodafoneThree and TalkTalk on CityFibre's footprint indicates that retail ISPs pass through a considerable amount of wholesale savings onto end customers, with an estimated average pass-through rate of 75% and Sky estimated to pass on 115% in Q4 2025 – Q1 2026.

[27] See FMN, paragraphs 27-29, 813-814, 926, 941, 954-955; See Quantification of Pro-Competitive Efficiencies, Sections 2.4, 4 and Table 3. Price evidence from Sky, VodafoneThree, and TalkTalk on CityFibre's footprint indicates that retail ISPs pass through a considerable amount of wholesale savings onto end customers, with an estimated average pass-through rate of 75% and Sky estimated to pass on 115% in Q4 2025 – Q1 2026.

[28] See Quantification of Pro-Competitive Efficiencies, Table 3.

[29] Examples in other European markets – such as Spain's PremiumFiber model (a jointly owned FibreCo between MasOrange, Vodafone Spain and GIC) – illustrate that structures whereby availability fees are paid by legacy cable operators to access the fibre network during the migration period, are an established mechanism to facilitate the transition.

(42) The Transaction will offer VMO2 customers earlier access to faster, more reliable and energy-efficient FTTP broadband. From a societal perspective, transitioning from HFC to FTTP will ultimately lead to a reduction in energy consumption across the VMO2 network.[30] From an individual customer perspective, FTTP provides a more reliable service with fewer outages and lower latency. A comparison of average performance levels of HFC and FTTP can be used to estimate a lower bound for the increased value to customers from a more reliable FTTP connection: the Parties have calculated a total benefit of circa £[10-20] **[REDACTED]** million in the first five years following the Transaction (circa £[10-20] **[REDACTED]** million after ten years), or £[1-5] **[REDACTED]** million per annum.[31]

(43) **Cost efficiencies accelerating fibre uptake**: The Transaction will generate three main wholesale cost efficiencies that help unlock fibre investment and promote economic growth.[32] Firstly, by strengthening nexfibre's capital position, in addition to the accelerated fibre rollout, the Transaction will enable faster, lower per-premises deployment cost FTTP upgrades.[33] Secondly, the Transaction will allow nexfibre to harness Netomnia's cost efficient expertise in fibre deployment when pursuing cable-to-fibre upgrade plans.[34] Thirdly, the synthetic wholesale fee that VMO2 will pay for HFC customers under the Transaction, will also incentivise HFC-to-FTTP customer migration.[35]

2.3 The REEs and RCBs are timely, likely, merger-specific, verifiable and beneficial to UK customers

(44) The REEs and RCBs resulting from the Transaction satisfy each of the CMA's criteria as set out in its Merger Assessment Guidelines ("**MAGs**").[36] The assessment of each REE and RCB resulting from the Transaction against the CMA criteria is set out in the Parties' previous submissions.[37]

3 Counterfactual: no effective and sustainable competition in WLA and poor wholesale and retail outcomes

(45) This Transaction is designed to create a credible scaled competitor to BT/Openreach in the WLA market for the first time. In the absence of the Transaction, each of the Parties will continue to face significant difficulties regarding their financial and operational positions and their ability to achieve the scale necessary to meaningfully compete in the WLA market. As such, there would have been, at most, no meaningful competition between the Parties and no effective and financially sustainable competition to BT/Openreach.

(46) At Phase 2, the CMA must select the most likely conditions of competition absent the merger as the relevant counterfactual.[38] This section sets out the Parties' position on the "most

[30] See Quantification of Pro-Competitive Efficiencies, Section 6

[31] See FMN, paragraph 944.

[32] See FMN, paragraphs 21-24, 936-938; See Quantification of Pro-Competitive Efficiencies, Section 6.

[33] See FMN, paragraphs 10, 21, 936.

[34] See FMN, paragraphs 21, 937.

[35] See Quantification of Pro-Competitive Efficiencies, Section 7.4.

[36] CMA Merger Assessment Guidelines, paragraph 8.8; CMA Draft Revised Guidance on Approach to Assessing Merger Efficiencies, paragraphs 13 and 35.

[37] See Section 7 of the Quantification of Pro-Competitive Efficiencies, Section 7; and FMN, Section 23 for further details of this assessment. This assessment of the REEs and RCBs resulting from the Transaction against the CMA's MAGs will be expanded in the Parties' response to RFI 2 dated 10 July 2026.

[38] MAGs, paragraphs 2.31 and 3.13. The relevant time period that the CMA will consider when assessing the counterfactual will be context and merger specific. In this regard, the Parties consider that a short-to-medium term time horizon spanning two to three years would best reflect the realities of the market and is consistent with the MAGs.

likely" conditions of competition which should be adopted by the CMA for its assessment at Phase 2 in relation to: (i) the wider altnet market; (ii) Substantial; and (iii) nexfibre and VMO2.

3.1 Absent the Transaction, the conditions of distress in the altnet sector would further accelerate

(47) The altnet sector is facing severe financial challenges which have resulted in low penetration and forced slowdowns or pauses in build programmes.

(48) Unattractive financial results, combined with low aggregate subscriber penetration, have caused a severe reduction in funding available to altnets, contributing to the financial difficulties faced by the sector. This lack of funding, coupled with high debt levels, has resulted in multiple altnets facing situations of distress in recent years (e.g. G.Network and Gigaclear)[39] and handing back Project Gigabit contracts. The result of these struggles is that most altnets have materially scaled back investment in network build in order to preserve cash for wholesale customer connections.

(49) Against the background of the compounding difficulties for the altnet sector, fibre overbuild by BT/Openreach is expected to continue at significant scale with its plans to cover 25 million premises with full fibre by the end of 2026 and ultimately reaching 30 million premises.[40] Altnets' commercial struggles are likely to be exacerbated by BT/Openreach's new special pricing offers which will further reduce the nationwide benchmark price for wholesale FTTP services. This downward pricing pressure comes at a time when market analysts have widely recognised that altnets will need to increase their commercially unsustainable low prices.[41]

(50) There is a widespread acknowledgement that consolidation is required to achieve sufficient scale and that consolidated is indeed a pre-requisite for more effective wholesale competition. For example, Ofcom has recognised that consolidation may lead to a greater competitive restraint to BT/Openreach, stating in the TAR that: "*consolidation may lead to an increase in scale and result in a consolidated entity which may be able to exert a stronger competitive constraint in the market than pre-consolidation.*"[42] Similarly, CityFibre's CEO has stated: "*But how can a fragmented array of challengers with different business models, funding runways and sales success ever hope to mount a credible and sustainable challenge to the incumbent? They can't. BT enjoys unparalleled economies of scale, and the most credible strategy to compete is to move beyond fragmentation and combine into a platform greater than the sum of its parts. To create a scaled, open, wholesale challenger to*

[39] The Next Chapter in UK Fibre, 20 April 2026, page 6; UK taxpayers exposed with creditors set to take over struggling broadband provider; Taxpayers lose £100m on investment in broadband company.

[40] **[REDACTED]**. Openreach's 2024–2025 financial accounts note, "*[w]e know the more fibre we build, the more customers choose to connect.*" Openreach decided to accelerate its 2025–26 fibre-build plans with the aim to "*pass 25 million premises by the end of 2026 and ultimately reach 30 million premises beyond that*". Openreach Limited, *Annual report and financial statement*, 31 March 2025, page 4. This ambition was confirmed in BT Group's *2026 Annual Report*, page 22.

[41] See, by way of example, the following market analyst statements:

- Assembly Report, "The Next Chapter in UK Fibre" (20 April 2026): *"Competing on prices that are considered too low has challenged the financial prosperity of the altnet market…. most altnets … need to rise to £40 or higher to place them on a sustainable financial footing that allows for future investment."*
- Enders Analysis, "Arising from the Ashes" (23 April 2026): *"The most likely path for altnets to convince investors that they will hit cashflow breakeven is to argue that their ARPUs will rise from the current levels to those of the incumbents...".*
- Enders Analysis, "The ARPU Growth Mirage" (18 May 2026): *"With incumbent and altnet pricing remaining low, there appears to be little potential for the altnets to meaningfully improve ARPUs, leaving their economics fatally stretched."*

[42] TAR Volume 2, paragraph 4.110(e).

Openreach."[43] As explained in Section 3.2 below, however, the sector-wide capital constraints present challenges to timely consolidation.

3.2 Substantial would not have become a scaled wholesale platform, an M&A-led consolidator nor a stronger retail constraint

3.2.1 Substantial's financial and operational position absent the Transaction renders it a narrower, vertically-integrated and retail-led operator

(51) Substantial's standalone position under the counterfactual must be assessed against the current economics of UK fibre rollout. The economics of fibre build are now materially more difficult than during its earlier rapid network expansion: take-up across the altnet sector has remained below the levels associated with sustainable returns; later cohorts of homes are increasingly subject to overbuild from BT/Openreach FTTP and, in certain locations, other altnets; ARPU is constrained; and higher interest rates have materially increased the burden on debt-funded rollout.[44] The commercial challenge is no longer simply to pass more premises, but to convert the existing footprint into live customers quickly enough, and at sufficient ARPU, to support a highly leveraged network business.[45]

(52) **[REDACTED]**[46] [47] [48] [49] [50] [51] [52]

(53) **[REDACTED]**[53] [54]

(54) The CMA should not treat Substantial's historical wholesale ambitions as a proxy for future competitive constraint **[REDACTED]** [55] [56] [57] [58] [59]

(55) The most likely position for Substantial in the counterfactual is therefore a more constrained, vertically integrated operator focused on retail-led monetisation through YouFibre, not a scaled, expanding wholesale platform.

3.2.2 Substantial would not have competed as a viable wholesale fixed broadband provider to ISPs absent the Transaction

(56) Substantial would not have competed in the supply of wholesale fixed broadband to ISPs at scale absent the Transaction. **[REDACTED]** Neither condition necessary for a

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[43] Speech by Simon Holden at Connected Britain 2025 | CityFibre.
[44] **[REDACTED]**
[45] **[REDACTED]**
[46] **[REDACTED]**
[47] **[REDACTED]**
[48] **[REDACTED]**
[49] **[REDACTED]**
[50] **[REDACTED]**
[51] **[REDACTED]**
[52] **[REDACTED]**
[53] **[REDACTED]**
[54] **[REDACTED]**
[55] **[REDACTED]**
[56] **[REDACTED]**
[57] **[REDACTED]**
[58] **[REDACTED]**
[59] **[REDACTED]**

sustainable wholesale position in the counterfactual — commercial *ability* and economic *incentive* — are met.

(i) **Substantial's commercial <u>ability</u> to secure sufficient ISP demand has weakened**

(57) Netomnia does not currently provide WLA to active third-party ISP customers[60] **[REDACTED]**. [61] [62] [63]

(58) During 2025, demand-side conditions deteriorated along every relevant dimension. The pricing environment became increasingly unattractive due to weakening retail ARPU and unit economics,[64] **[REDACTED]** [65] [66]

(59) National ISP feedback showed that Netomnia lacked the scale and operating model necessary to justify integration: **[REDACTED]** [67] [68] [69]

(60) ISP economics compounded the difficulty of securing scaled wholesale demand, particularly as ISPs would be contracting with a vertically integrated network owner that also competes downstream through its own retail brand. **[REDACTED]**[70]

(61) **[REDACTED]**[71] [72] [73] [74] [75]

(62) **[REDACTED]**[76]

(ii) **Substantial's <u>incentives</u> to pursue scaled third-party wholesale have weakened**

(63) By 2025, Substantial's incentive to supply wholesale weakened because the contribution from wholesale was increasingly dependent on optimistic pricing and volume assumptions that the market evidence no longer supported, while retail cannibalisation, ISP protections, implementation costs and demand risk became more material.

(64) As explained above, the expectation that Netomnia could secure scaled wholesale volumes became increasingly challenging in 2025. This mattered for incentives because wholesale volumes were necessary to offset lower wholesale margins and implementation costs. **[REDACTED]** Integration costs were also a key consideration, **[REDACTED]**[77]

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[60] **[REDACTED]**
[61] **[REDACTED]**
[62] **[REDACTED]**
[63] **[REDACTED]**
[64] **[REDACTED]**
[65] **[REDACTED]**
[66] **[REDACTED]**
[67] FMN, paragraph 351.
[68] **[REDACTED]**
[69] **[REDACTED]**
[70] **[REDACTED]**
[71] **[REDACTED]**
[72] **[REDACTED]**
[73] **[REDACTED]**
[74] **[REDACTED]**
[75] **[REDACTED]**
[76] **[REDACTED]**
[77] **[REDACTED]**

(65) **[REDACTED]**[78] [79]

(66) Scaled wholesale is therefore not a viable commercial route for Substantial unless fixed broadband ARPU improves materially or the terms required by large ISPs become less onerous. Neither condition is supported by the evidence. The most likely conditions of competition absent the Transaction are that Substantial would remain a vertically integrated operator focused on retail-led monetisation through YouFibre, not a wholesale competitor.

3.2.3 Substantial would not have scaled through M&A in the counterfactual

(67) The evidence does not support the counterfactual that Substantial would have consolidated with another altnet absent the Transaction.[80] **[REDACTED]**

(i) [REDACTED]

(68) **[REDACTED]**[81] [82] [83] [84]

(69) **[REDACTED]**[85] [86] [87] [88]

(70) **[REDACTED]**[89] [90]

(71) **[REDACTED]**[91]

(ii) **There is no material altnet that Substantial would merge with under current market conditions**

(72) While there is a widespread expectation that consolidation in the altnet space is necessary, there is no realistic route in which **Substantial itself** becomes the consolidator, or merges with any other material altnet absent the Transaction, to create a scaled wholesale challenger to BT/Openreach.

(73) As noted above, the UK altnet sector is experiencing widespread financial distress - high total net debt, increasing aggregate net losses **[REDACTED]** and deeply negative EBITDA margins, in turn leading to a severe reduction in available funding.[92] Consolidation to date has not involved a merger between two already scaled independent altnets: it has been limited to intra-shareholder combinations, distressed or forced transactions, and sub-scale bolt-on acquisitions or mergers. These conditions mean that Substantial has no realistic ability to act as a consolidator. **[REDACTED]**

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[78] **[REDACTED]**
[79] **[REDACTED]**
[80] **[REDACTED]**
[81] **[REDACTED]**
[82] **[REDACTED]**
[83] **[REDACTED]**
[84] **[REDACTED]**
[85] **[REDACTED]**
[86] **[REDACTED]**
[87] **[REDACTED]**
[88] **[REDACTED]**
[89] **[REDACTED]**
[90] **[REDACTED]**
[91] **[REDACTED]**
[92] **[REDACTED]**

(74) **[REDACTED]**[93] [94] [95] [96]

(75) **[REDACTED]**[97]

(76) Whether the CMA examines a no alternative purchaser counterfactual or one in which Substantial would have scaled through its own acquisitions, the conclusion is the same: the counterfactual is not M&A-driven scaling but a constrained, standalone, retail-led business with no viable wholesale operation and continued dependence on external funding. Neither Substantial nor any other material altnet had the ability to complete a consolidation transaction that would have produced a scaled wholesale rival to BT/Openreach.

3.2.4 Retail pricing pressure reinforces the constrained counterfactual

(77) The CMA should also consider Substantial's retail position in dynamic terms. Altnets, including YouFibre and Brsk ISP, have to date won customers through aggressive acquisition pricing and strong value for money,[98] but that pricing is not sufficient to support long-term network economics on a standalone basis. **[REDACTED]**[99] [100]

(78) At the same time, Substantial cannot simply increase prices without consequence. ARPU growth is severely constrained by intense competition from other ISPs and the need to drive take-up.[101] **[REDACTED]**[102] Low retail pricing may support customer acquisition but is difficult to sustain financially; increasing prices would improve sustainability but are likely to weaken take-up and increase churn.[103]

(79) The retail market has become still less forgiving. **[REDACTED]**[104] [105] [106]

(80) Overbuild, particularly from Openreach's FTTP upgrades, intensifies this pressure. Netomnia's ready for service ("**RFS**") footprint is already heavily exposed to competing fixed infrastructure, **[REDACTED]**[107] Under its accelerated build programme, Openreach plans to cover 25 million premises with FTTP by the end of 2026, rising to 30 million.[108] **[REDACTED]**[109] [110]

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[93] **[REDACTED]**
[94] **[REDACTED]**
[95] **[REDACTED]**
[96] **[REDACTED]**
[97] **[REDACTED]**
[98] **[REDACTED]**.
[99] **[REDACTED]**
[100] **[REDACTED]**
[101] **[REDACTED]**.
[102] **[REDACTED]**
[103] **[REDACTED]**.
[104] **[REDACTED]**
[105] **[REDACTED]**
[106] **[REDACTED]**
[107] **[REDACTED]**
[108] See footnote 40.
[109] **[REDACTED]**
[110] **[REDACTED]**

(81) This matters because Substantial's strongest historical performance is not indicative of future performance. **[REDACTED]**[111] [112] [113]

(82) **[REDACTED]**[114] [115] [116] Substantial therefore faces a tight pricing and penetration trade-off: prices need to rise to preserve financial sustainability, but price rises are constrained by the need to preserve penetration in a market characterised by overbuild and aggressive retail competition.

3.3 As it stands, nexfibre, including through its jointly marketed proposition with VMO2, would not have delivered effective and sustainable competition to BT/Openreach

3.3.1 Absent the Transaction, nexfibre would remain in a [REDACTED] financial position and [REDACTED]

(83) The Transaction is **[REDACTED]** for nexfibre from the **[REDACTED]** and future build plans. The most likely counterfactual absent the Transaction is that nexfibre would remain in a **[REDACTED]** financial position and **[REDACTED]**.[117]

(84) nexfibre was founded with an ambition of reaching 5 million homes, underpinned by a business plan which assumed **[REDACTED]**% wholesale penetration. **[REDACTED]**[118]

(85) Absent the Transaction, there is therefore a high likelihood that nexfibre would see **[REDACTED]** current built target to reach just over 2.6 million premises by the end of 2026. **[REDACTED]** [119] [120]

(86) **[REDACTED]**

(87) **[REDACTED]**[121]

(88) **[REDACTED]**

(89) In summary, the Transaction will have a transformational impact on nexfibre's financial position **[REDACTED]**

3.3.2 [REDACTED]

(90) **[REDACTED]**

(91) As an initial matter, VMO2 operates in a highly competitive market and a challenging macroeconomic environment, **[REDACTED]**

(92) **[REDACTED]**[122]

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[111] **[REDACTED]**

[112] **[REDACTED]**

[113] **[REDACTED]**

[114] **[REDACTED]**

[115] **[REDACTED]**

[116] **[REDACTED]**

[117] See Section 5 of the Buy-side Counterfactual Paper.

[118] See FMN, Annex 1.001 for further details.

[119] **[REDACTED]** See the Buy-side Counterfactual Paper, paragraphs 19 and 32, for further detail.

[120] **[REDACTED]**

[121] **[REDACTED]**

[122] FMN, Annex 1.003.

(93) **[REDACTED]**[123]

This is shown by independent external analysis: NewStreet Research from July 2026 highlights that VMO2 is expected to remain highly leveraged and to struggle with its capital requirements with investors increasingly concerned about the leverage, corroborating the view that VMO2's leverage is a structural financial constraint that is expected to persist.[124] The Financial Times also noted that VMO2's bonds are at an all-time low, with investors demanding yields approaching 9%, highlighting the capex and cash flow constraints faced.[125] Further, Fitch Ratings also downgraded VMO2's Long-Term Issuer Default Rating (IDR) to 'B+' from 'BB-' in June 2026. Yields on VMO2's bonds have widened in 2026 and the market is pricing longer-term dated VMO2 bonds at a significant discount to VMO2 bonds with earlier maturities.

(94) **[REDACTED]**[126]

(95) **[REDACTED]**[127] [128] [129]

(96) **[REDACTED]**[130]

(97) **[REDACTED]**

(98) **[REDACTED]**[131]

(99) **[REDACTED]**[132] [133]

(100) **[REDACTED]**

(101) **[REDACTED]**

3.3.3 nexfibre and VMO2's joint wholesale proposition would have had limited traction absent the Transaction

(102) For the reasons explained above, the most likely scenario is that nexfibre's footprint would remain sub-scale and nexfibre would be unlikely (including through its jointly marketed footprint with VMO2) to secure key wholesale contracts and would be unable to compete credibly with BT/Openreach in a timely manner (or at all).

(103) While nexfibre and VMO2 can together jointly market a current FTTP footprint of approximately **[REDACTED]** premises, **[REDACTED]**; and (ii) this does not provide a path to **[REDACTED]** for nexfibre, **[REDACTED]**. In light of their respective financial difficulties, VMO2 and nexfibre have failed to deliver on their ambitions for FTTP coverage (as explained

[123] For further detail, see the 19 May 2026 response to question 4 of PN RFI 2, issued by the CMA on 12 May 2026.

[124] NewStreet Research, "VMO2/BT: What if nexfibre-netomnia goes to Phase 2?" (1 July 2026).

[125] Financial Times, "Virgin Media O2 bonds slide as broadband rivals squeeze cash flow" (29 June 2026).

[126] See the Buy-side Counterfactual Paper, section 6.2, for further detail.

[127] FMN, Annex 9.1.473.

[128] **[REDACTED]**

[129] These structural pressures have been acknowledged by external analysts and rating agencies, with NewStreet Research highlighting that VMO2 is expected to remain highly leveraged and to struggle with its capital requirements. See the Buy-side Counterfactual Paper.

[130] **[REDACTED]**

[131] See the Parties' Response to RFI 5.

[132] See the Buy-side Counterfactual Paper, section 6.4, for further detail.

[133] **[REDACTED]**

in Sections 3.3.1 and 3.3.2 above) and, absent the Transaction, they cannot point ISPs to a credible path to achieve the scale needed to be attractive to ISPs.

(104) **[REDACTED]**[134] [135] [136]

(105) **[REDACTED]**[137] This demonstrates that the Parties' combined and scaled FTTP network post-Transaction (including the circa 2.1 million to be upgraded under **[REDACTED]**[138] as well as VMO2's accelerated fibre upgrade premises) could offer a compelling wholesale opportunity. **[REDACTED]**

(106) **[REDACTED]** (with a network covering only 2.6 million premises)**[REDACTED]**

(107) In summary, the relevant counterfactual would be that neither nexfibre nor VMO2 (both individually and together through their jointly marketed proposition) would provide effective and financially sustainable competition to BT/Openreach in the absence of the Transaction.

4 Theory of Harm 1: No SLC in the wholesale market

(108) The Parties submit that there would be no SLC in the WLA market on any plausible basis. Rather, as noted above, the Transaction will create a scaled and sustainable competitor to BT/Openreach for the first time and will increase competitive pressure to the benefit of ISPs and, ultimately, UK consumers.

4.1 The Parties' views on the relevant market definition for WLA

4.1.1 Product frame of reference

(109) The WLA market concerns the supply of wholesale broadband to downstream ISPs, such as the large ISPs: Sky, TalkTalk and VodafoneThree.

(110) The CMA in *BT/EE*[139] identified the market for fixed wholesale broadband access ("**WBA**") services (excluding mobile, wireless and satellite networks) and considered possible further segmentation (including by wholesale access product). More recently, Ofcom's TAR subsequently identified a single product market for the supply of WLA at a fixed location, encompassing all fixed networks and speeds and both residential and business services.[140]

(111) The Parties submit that, irrespective of the approach taken to market definition, it is critical to recognise that whilst HFC is technically capable of being used for wholesale delivery, there is simply no third-party wholesale demand for HFC in the UK — third-party ISPs increasingly require a high-quality, standardised full fibre product on a national or near-national basis, which HFC cannot provide. VMO2 has submitted compelling evidence to the CMA as part of the pre-notification process evidencing that ISPs are simply not interested in HFC wholesale.[141]

4.1.2 Geographic frame of reference

[134] See Quantification of Pro-Competitive Efficiencies, section 2.2, for further detail.

[135] See Schedule 1 of VMO2's 13 May 2026 response to the s.109 notice issued by the CMA to VMO2 on 30 April 2026 for further detail.

[136] See FMN, paragraph 537.

[137] *ibid.*

[138] See the Parties' 6 May 2026 response to question 1 of RFI 1 issued by the CMA on 24 April 2026 for further detail.

[139] *BT/EE*, Final Report ("***BT/EE***").

[140] FMN, paragraph 34(i).

[141] FMN, paragraphs 403 and 404.

(112) The Parties submit that the relevant geographic frame of reference for the WLA market is national in scope. There are three key features of wholesale competition that support this frame of reference.

(113) First, commercial negotiations with major retail ISPs are conducted across suppliers' full network rather than by geographic area, and result in uniform terms that apply nationally, subject to each supplier's footprint. Major national retail ISPs (e.g., Sky, PXC (TalkTalk), VodafoneThree) are the principal customers of third-party WLA providers. These ISPs are national buyers who serve retail customers on a largely UK-wide basis and procure WLA services to support their national retail offer.

(114) ISPs procure WLA services centrally through large framework agreements governing pricing, access and service levels across a WLA provider's entire UK footprint, rather than bargaining by geographic area. In the Parties' experience, procurement and negotiations are also conducted by central teams. This reflects the demand-side reality that ISPs are national buyers who negotiate centrally and do not distinguish by geography.[142]

(115) Second, a large geographic footprint is itself a key competitive parameter. National footprints unlock significant commercial and operational benefits, enabling a wholesale proposition that can effectively compete with BT/Openreach, whereas regional footprints introduce operational and customer-handling complexities which make them less suitable for wholesale. A WLA provider with a large geographic footprint is more likely to have suitable existing coverage wherever it is needed by the ISP. Moreover, high fixed integration costs mean a WLA provider must offer scale to lower per-premise costs and remain economically viable for ISPs.

(116) Beyond the financial constraints, the process of onboarding an additional WLA provider entails significant new frictions specific to each wholesaler leading to material implementation risk and time to onboard, including (but not limited to) network interconnect planning, API integration and operational process alignment. **[REDACTED]**[143] [144]

(117) ISPs therefore prefer to integrate with one supplier only, if possible, which offers the widest footprint. Smaller, regional suppliers cannot offer the same proposition and are not attractive WLA providers. If an ISP were to use a greater number of regional wholesalers, this would increase operational cost and complexity for the ISP and it would undermine the nationally consistent and homogenised products and services offered by ISPs (in terms of e.g. different systems, customer processes, standards, quality and performance attained by different wholesale network operators, such as customer installations, fault repair times etc.). This explains why, other than BT/Openreach, which has a near-ubiquitous network, no other operator offers wholesale services at scale and why the industry needs to consolidate in order to be competitive with BT/Openreach.[145]

(118) Third, the parameters of wholesale competition are set nationally and applied uniformly across geographic areas. Because of its near-ubiquitous UK presence, BT/Openreach sets the terms for wholesale competition nationally. BT/Openreach is subject to Significant Market Power ("**SMP**") regulation across all areas in which it is present and is contractually

[142] FMN, paragraph 413; FMN, Annex 1.005.

[143] **[REDACTED]**

[144] **[REDACTED]**

[145] FMN, Annex 1.005.

prohibited from geographic price discrimination without Ofcom consent.[146] This creates a uniform baseline against which competing WLA providers – including the Parties – benchmark their pricing, service levels and technology, typically applying a single flat discount against BT/Openreach's line rental across their entire footprint. Non-price terms (e.g., service levels, technology) likewise do not vary by location. The pricing strategies, commercial terms, technology and operational standards that determine competitive outcomes therefore do not vary based on location; they are effectively the same across WLA providers' full networks.[147]

(119) Finally, Ofcom's own TAR categorisation (WLA Areas 2 and 3) is an *ex-ante* regulatory exercise primarily concerned with identifying areas where competition is sufficient to constrain BT/Openreach. Whilst the framework used in the TAR is a conceptually different exercise from geographic market definition for the purposes of merger control analysis, in any event, as per Ofcom's classification, 86% of UK premises fall within WLA Area 2, indicating limited national variation in competitive conditions.[148]

(120) Importantly, the three features of competition outlined above are consistent with the CMA's reasoning in related market contexts, including in the telecommunications infrastructure space. For example, in its review of *Cellnex / CK Hutchison* (a transaction involving the sale of mobile towers from mobile network operator ("**MNO**") Three to the Wireless Infrastructure Provider ("**WIP**"), Cellnex), the CMA concluded that the appropriate geographic frame of reference was national for reasons which apply equally in the case of WLA, notwithstanding that the underlying physical assets were local and suppliers differed in their regional coverage.[149, 150]

4.2 The Transaction will not reduce competition in the national WLA market

4.2.1 The relevant counterfactual: the Parties do not compete in WLA

(121) The Parties do not currently provide WLA to third-party ISPs: Netomnia's only WLA customers are within its own corporate group, and nexfibre currently supplies WLA only to VMO2 (its anchor tenant and related party, sharing ultimate parent companies Telefónica and Liberty Global).

(122) As explained in Section 3 above, the relevant counterfactual is one where there is, at most, no meaningful competition between the Parties given that each of nexfibre and Substantial lacks the requisite scale to provide effective and sustainable competition to BT/Openreach in a timely way (or at all). Significantly, Substantial would not have competed in the supply of wholesale fixed broadband to major ISPs at scale absent the Transaction.

(123) Absent the Transaction, nexfibre and Substantial have had no credible path to achieve organic scale:

(i) **[REDACTED]** target of approximately 5 million homes.

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[146] SMP is a regulatory designation under the Communications Act 2003 (which implements the EU electronic communications framework). An operator has SMP where it enjoys a position of economic strength, enabling it to act independently of competitors and customers. Ofcom may designate an operator as having SMP and impose *ex-ante* regulatory obligations on it.

[147] FMN, Annex 1.005.

[148] FMN, paragraph 412.

[149] *Cellnex / CK Hutchison UK towers* merger inquiry, decision available here: https://www.gov.uk/cma-cases/cellnex-slash-ck-hutchison-uk-towers-merger-inquiry#final-report.

[150] The relevant product scope was the supply of access to developed macro sites (including build to suit sites) and ancillary services to MNOs and other wireless communication providers.

(ii) Netomnia has a current network footprint of 3.14 million premises. Netomnia is expected to reach approximately 3.4 million premises in 2026 **[REDACTED]** While it had previously indicated plans to reach 5 million premises in 2027, **[REDACTED]**

(iii) **[REDACTED]**[151]

4.2.2 BT/Openreach has a unique and ubiquitous market position underpinned by unparalleled incumbency and scale advantages and aggressive pricing

(124) The WLA market is unique on account of the overwhelming and enduring dominance of BT/Openreach. As explained above, BT/Openreach holds an over 69% market share (including self-supply) and 92% (excluding self-supply). It was found in the TAR to hold SMP in all geographic locations based on its persistently high market shares, substantial and non-transitory barriers to entry and expansion, and BT/Openreach's ability and incentive (absent regulation) to engage in strategic behaviour that deters (ISPs and end-users) from switching and multi-sourcing.[152] BT/Openreach has, and will retain post-Transaction, insurmountable competitive advantages.

(125) Further, the Parties consider that BT/Openreach is pursuing a strategy which will cement its wholesale market dominance through a combination of rapid FTTP roll-out (with more than 1 million premises passed for 8 consecutive quarters), pricing policies designed to squeeze emerging competition and a drive to place ONUs into customers' homes to raise barriers to switching.[153] As BT/Openreach's CEO recently stated: "*We feel that we're going to be the only provider of fibre nationwide.*"[154] The corollary is that the longer it takes for a scaled competitor to BT/Openreach to emerge, the harder it will be to establish genuine competition.

(126) **Network ubiquity:** BT/Openreach has a unique position in the WLA market on account of its ubiquitous national presence (excluding the Hull area). BT/Openreach's FTTC-based superfast broadband network reaches over 95% of UK households and its FTTP network was ready for service at 19.2 million premises as of Q2 2025, with a target of 25 million by 2026 and plans to reach 30 million. This footprint is not replicable.

(127) **Control of physical access layer:** BT/Openreach's enduring dominance is underpinned by its control of the upstream physical access layer, built over decades as a dominant player at a scale that no single altnet can match. This confers a structural cost advantage in providing national coverage that rivals cannot replicate: altnets must either build their own infrastructure from scratch or access BT/Openreach's network on BT/Openreach's terms, which are based on no undue discrimination and not equivalence of input terms.[155]

(128) **Switching costs and incumbency advantage:** Given the widespread availability of its network, BT/Openreach holds incumbent relationships with all major ISPs and is an unavoidable trading partner, even for ISPs that choose to multi-source. BT/Openreach's incumbency translates into deep, entrenched ISP relationships that competitors cannot easily displace. Ofcom has identified customer switching frictions as a key barrier to rival

[151] **[REDACTED]**

[152] FMN, paragraphs 597 and 598.

[153] See Annex LL_nexfibre_00000006, page 68. For example, where a BT/Openreach ONU is already present in a home, VMO2 estimates that approximately 50% of ISP second installs will choose Openreach in order to benefit from a quick-start activation, without the need for a new installation visit – see Annex 9.1.247, slide 9.

[154] "BT/Openreach boss shrugs off challenge of rival", The Times, 27 May 2026.

[155] The position of altnets is further constrained by their reliance on BT/Openreach's physical infrastructure remedies ("**PIA**") for their own network build, making them customers of the very infrastructure against which they compete. This includes nexfibre and Netomnia, whose network is predominantly PIA-built.

expansion on a national scale, encompassing actual and perceived switching costs, service disruption, and weaker consumer familiarity with smaller brands.

(129) **IT integration and multi-sourcing costs:** Securing a wholesale relationship at national scale requires ISPs to undergo lengthy and costly IT and systems integration. Altnets must often offer material financial incentives (including upfront integration payments) to attract national retail ISP partners. For ISPs seeking to multi-source beyond BT/Openreach, these costs compound: each additional provider relationship requires separate negotiation, IT integration and ongoing management, multiplying the burden in proportion to the number of providers engaged.

(130) **Default pricing advantage:** BT/Openreach operates as the default pricing benchmark from which alternative providers must discount to attract ISPs. This pricing power compounds the structural cost advantages described above, creating a self-reinforcing dynamic that no current competitor can match: altnets are compelled to offer discounts simply to be considered, despite carrying structurally higher costs, raising material questions about the long-term sustainability of altnet wholesale pricing. **[REDACTED]** Absent sufficient consolidation that creates genuinely scaled wholesale alternatives, ISPs risk sustained dependence on BT/Openreach's pricing with no credible national alternative capable of constraining it.

(131) BT/Openreach effectively sets the benchmark for all competition in the WLA market — including price, service quality and technology. Its near-universal duct and pole network and Equinox 2 regulated pricing model are the reference points against which all competing WLA providers must benchmark their own offers.

(132) **Aggressive pricing policies**. In TAR, Ofcom recognised that BT/Openreach has the ability and incentive to undermine the development of network competition in the long-term "*through market-wide low prices, geographically targeted discounts and/or offers that are conditional on the volume and/or range of services purchased".* In the Parties' view, BT/Openreach's pricing policies have helped stymie the emergence of competition.

(133) In 2021, BT/Openreach announced Equinox 1 as a 10-year deal, designed to incentivise migration of its base from copper to fibre. Equinox 2 followed just 18 months later, applying further wholesale discounts to its FTTP products. These pricing schemes, including the special offers notified to Ofcom on 1 June 2026, have been drip-fed into the market, and worked in parallel with ad-hoc special offers providing line rental and connection fee discounts, to apply pressure on other infrastructure providers and chill further investment.

(134) Most recently, BT/Openreach has announced pricing offers which represent a discount of between 55–76% of its previous Equinox 2 price and includes offers which specifically target VMO2. Even if Ofcom intervenes to prevent BT/Openreach's latest offers, it is noted that these offers: (i) appear timed and designed to prevent the emergence of a significant challenger in nexfibre (following announcement of the Netomnia transaction); (ii) **[REDACTED]**; and (iii) are causing further uncertainty amongst investors, putting at risk continued competitive investment in the altnet market.

4.2.3 The Parties' shares are limited and there is no meaningful competition between them

(135) As noted above, the Parties have no third-party WLA customers[156] and their current share of third-party WLA supply is therefore 0%. On a conservative basis, even including self-supply, the Parties' combined share of the national WLA market is modest at c. [20-30] **[REDACTED]**% with a *de minimis* increment of c. [0-5] **[REDACTED]**% arising from Substantial as a result of the Transaction.

(136) BT/Openreach remains the dominant and pre-eminent market leader with an over 69% share (including self-supply). Whilst the Parties submit that the relevant frame of reference for the WLA market is national, the Parties note for completeness that their combined market shares would remain small with a *de minimis* increment in both geographic markets identified by Ofcom: in WLA Area 2 the Parties' combined share is c. [20-30] **[REDACTED]** with a less than [0-5] **[REDACTED]** increment, and in WLA Area 3 their combined share is c. [0-5] **[REDACTED]**with a less than [0-5] **[REDACTED]** increment -both well below any threshold giving rise to concerns.[157]

(137) If shares excluding self-supply are considered, the dominance of BT/Openreach is even more stark: 92% of third-party ISP retail connections are on the Openreach network.

(138) There is no actual competition between the Parties in the WLA market, as neither Party provides WLA to third-party ISPs. In any case, the primary competitive dynamic in the WLA market is competition with BT/Openreach. Due to the high costs associated with integrating additional WLA providers, ISPs typically prefer to contract with a small number of providers alongside BT/Openreach which is the default WLA provider, on account of its near-ubiquitous market presence and incumbency advantage.

(139) The Parties' internal documents and pricing strategies indicate that nexfibre/VMO2 does not consider Netomnia to be a particularly close competitor for WLA (and vice versa). **[REDACTED]**.[158] **[REDACTED]**.[159]

4.2.4 The Transaction will not prevent other altnets, including CityFibre, from achieving scale either organically or inorganically

(140) Substantial accounts for a small portion of the altnet footprint and there is a plethora of other altnets in a fragmented sector. Aside from BT/Openreach, there are a significant number of other altnets active in the WLA market, including CityFibre, Hyperoptic, Gigaclear, Community Fibre, Zzoomm and AllPoints Fibre, in addition to a large number of other players. The number of networks is already higher compared with many other European markets.

(141) There is nothing unique about Substantial's position in the market. Its WLA network (comprising Netomnia and Brsk's footprints) is only a small part of the overall footprint provided by the altnets, amounting to circa 20% of the total altnet footprint.[160] Netomnia and Brsk's current premises amount to circa 3.14 million. By comparison, CityFibre has circa 4.7 million premises, Community Fibre has circa 1.5 million, Hyperoptic circa 1.3 million, Full

[156] Excluding VMO2 as the anchor tenant to nexfibre's wholesale network.

[157] See FMN, paragraphs 48, 441 and 447.

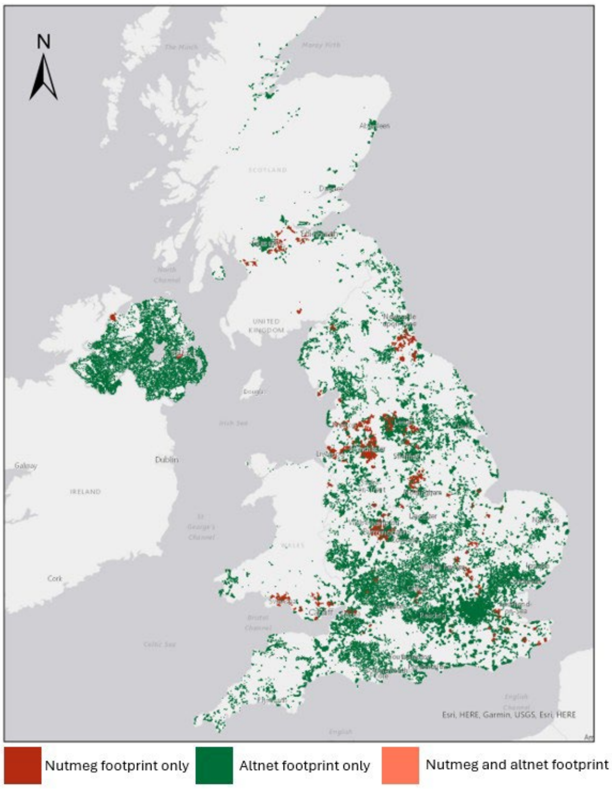
[158] See FMN, paragraphs 517 and 624 for further detail.

[159] See FMN, paragraphs 540 and 559 for further detail.

[160] Based on thinkbroadband data and the Parties' internal records, within all postcodes where altnets are present, there are only circa 20% of these postcodes where only the Target is present.

Fibre circa 0.6 million and Gigaclear circa 0.6 million.[161, 162] In addition to these larger players, there is a long tail of smaller altnets contributing premises to the overall altnet footprint. Indeed, remaining altnets' footprint would cover a greater area than nexfibre, Substantial and VMO2. On its own, CityFibre is of significantly greater scale than nexfibre absent the Transaction.

Figure 4: Altnet coverage



Source: Parties footprint data and Point Topic availability data

(142) Moreover, Substantial has a similar profile to other altnets across several dimensions including penetration rates (which are consistent with those observed across the altnet sector more broadly) and network build strategy (which relies heavily on Openreach's PIA product, utilising existing ducts and poles rather than constructing new physical infrastructure).

(143) It follows that a significant altnet footprint will remain in the market post-Transaction, such that the Transaction will not preclude the ability of other altnets to consolidate to form scaled, more competitive players. The distribution of Substantial's network infrastructure geographically is also not unique as other altnets provide WLA in similar parts of the UK. Remaining altnets could therefore combine in the future and achieve similar geographic coverage as a scaled, competitive force.

(144) CityFibre has alleged that the Transaction will create an "ineffective duopoly" of BT/Openreach and VMO2. This proposition is, however, wholly untenable in light of the

[161] See Broadband Report September 2025 | thinkbroadband; CityFibre delivers record performance in 2025 | CityFibre. For completeness, thinkbroadband presents an estimated number of 4.3 million premises for CityFibre as of September 2025 (see Broadband Report September 2025 | thinkbroadband).

[162] For completeness, Hyperoptic states that its network covered over 1.9 million premises as of June 2025 (see Hyperoptic Mid-Year Update Report).

significant altnet footprint remaining in the market, and the fact that the enlarged nexfibre will not have anywhere near the scale of BT/Openreach post-Transaction. It is also belied by CityFibre's own statements in relation to its strong growth credentials and M&A pipeline. For instance, when asked about CityFibre's future M&A opportunities, its CFO stated that there were other opportunities to consolidate in the UK and *"we see a very successful build of our business….dropping extra footprint onto our wholesale platform enables ISPs….to get access to an ever greater footprint where they've demonstrated….that they can outperform versus Virgin Media or Openreach."*[163]

(145) On its own, CityFibre is of significantly greater scale than nexfibre. CityFibre has a circa 4.7 million premises footprint, has publicly reported "*record performance*" in 2025 marked by "*record-breaking customer growth and profitability*", has labelled 2025 a "l*andmark year*", and its CFO has publicly stated the company sees "*the opportunity to grow our business*". CityFibre is already executing a consolidation strategy, having recently acquired the altnets Connexin (March 2025) and Lit Fibre (May 2024).[164] While Section 3.2.3 above **[REDACTED]**, the Transaction in no way impacts its ability to execute on other M&A opportunities should it overcome these constraints.

(146) In summary, the Transaction does not remove the ability of altnets including CityFibre to combine their footprints, achieve significant scale and pose an additional scaled and sustainable competitive constraint to Openreach.[165]

4.3 While the market is national, local overlaps between the Parties are limited and geographically dispersed

4.3.1 Areas of local FTTP overlap are limited and insignificant in a national context

(147) Although the Parties submit that WLA competition should be assessed nationally, no competition concerns arise even if the CMA were to consider local overlaps. The local overlap between the Parties' FTTP networks is limited in the context of the overall Transaction footprint and insignificant when considered nationally.

(148) The commercial reality of WLA is that major retail ISPs procure wholesale access by reference to the scale, quality and viability of a supplier's overall network footprint: negotiations are conducted across suppliers' full networks, integration costs make a patchwork of local operators unattractive, and wholesale pricing and build strategy are not set postcode-by-postcode. Any local analysis would therefore need to be, in any event, conducted at an appropriately aggregated level, such as postcode district or higher.[166]

(149) The apparent all-technology overlap materially overstates the overlap relevant to wholesale competition. On an all-technology basis, the Parties overlap in circa **[REDACTED]** million Unique Property Reference Numbers ("**UPRNs**") (in circa **[REDACTED]** postcodes), representing circa **[REDACTED]**% of the Parties' combined UPRN footprint (circa **[REDACTED]**% of their combined postcode footprint), and circa **[REDACTED]**% of all UK premises.[167] However, that measure includes VMO2's legacy HFC/Radio Frequency Over Glass ("**RFOG**") footprint, while the appropriate focus for wholesale competition is FTTP (given that there is no wholesale demand for these technologies in the UK) and the combined

[163] See FMN, Annex 1.002 for further detail.

[164] FMN, paragraph 611.

[165] FMN, paragraph 614.

[166] FMN, paragraphs 410-412, 628, and 632.

[167] This includes nexfibre's and Netomnia's build plans until August 2026 and July 2026 respectively.

nexfibre/VMO2 wholesale proposition being marketed to ISPs only covers FTTP premises, but not HFC or RFOG.[168]

(150) When considering the footprint that is relevant for the actual wholesale services that customers now demand (i.e. FTTP), the overlap is much more limited. The Parties' FTTP overlap is only circa **[REDACTED]** million UPRNs (in circa **[REDACTED]** postcodes), which represents circa **[REDACTED]**% of the Parties' combined fibre footprint and only **[REDACTED]**% of UK FTTP premises.[169]

(151) The same conclusion holds under a more granular Area 2/Area 3 view, as identified by Ofcom's TAR. Area 2 comprises postcode sectors where there is already, or is likely to be potential for, material and sustainable competition to BT/Openreach, while Area 3 comprises areas where such competition is unlikely.[170] More than 99% of the Parties' overlap, whether measured on an all-technology or FTTP-only basis, falls in Area 2. The FTTP overlap accounts for less than **[REDACTED]**% of the Parties' combined FTTP footprint in Area 2 and less than **[REDACTED]**% of all FTTP postcodes in the area. The overlap therefore remains limited on the basis of the geographic markets defined by Ofcom.

(152) Local competitive constraints will remain strong in the overlap footprint. Openreach FTTP is present in 89% of the overlap postcodes (91% of FTTP overlap postcodes), and in 93% of FTTP overlap postcodes the Parties face at least one competitor (whether Openreach or another altnet). Furthermore, Openreach has ambitions to extend to 30 million FTTP premises by the end of 2030, which would result in a complete overbuild of the Parties' network.[171]

(153) **[REDACTED]** This is because in the counterfactual: (i) **[REDACTED]**;[172] (ii) Netomnia's latest plan is expecting to reach approximately 3.4 million premises only;[173] and (iii) **[REDACTED]**).[174]

4.3.2 Areas of local FTTP overlap are geographically dispersed

(154) As illustrated in **Figure (5)**, the Parties' FTTP overlap is also geographically dispersed across the UK. The overlap is spread across over 90 local authorities in the UK, and even the local authority area with the greatest number of overlap premises between the Parties (i.e. Birmingham) accounts for less than 10% of all overlap premises between the Parties in the UK.

Figure (5): FTTP overlap between the Parties

[168] FMN, paragraphs 402-405 and 408.

[169] The total number of FTTP (full fibre) UK premises is obtained from Ofcom's Connected Nations update: Spring 2026.

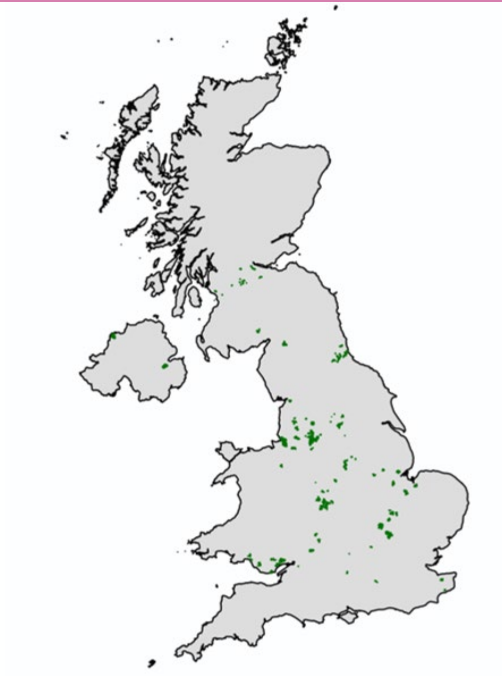
[170] FMN, paragraph 411.

[171] FMN, paragraph 303.

[172] FMN, paragraph 262.

[173] FMN, paragraph 263.

[174] FMN, paragraph 266.



Source: Parties' footprint data

(155) Moreover, even within these areas of overlap, Netomnia's coverage density is relatively low, reflecting its low-cost approach to network build. By way of illustration, Netomnia covers only **[REDACTED]**% of all premises in Birmingham, compared to the **[REDACTED]**% covered by nexfibre/VMO2's FTTP network and 81% covered by BT/Openreach FTTP.[175] While WLA competition does not occur locally, this disparate geographic coverage reduces the strength of constraint that Netomnia could hypothetically impose even in these areas (noting that ISPs typically seek comprehensive coverage within WLA operators' footprints).

(156) Indeed, following the Transaction, the Parties' combined FTTP footprint will immediately cover **[REDACTED]**% of Birmingham premises, which will further increase to **[REDACTED]**% in the short-term after the infill provided that Project Gordon upgrade is ready.[176] As outlined above, in these limited and dispersed local overlap areas, Netomnia's network coverage is partial as its build strategy has been focused on capital efficiency and roll-out speed, with material coverage gaps in which BT/Openreach is currently the only wholesale operator. This further illustrates that, instead of limiting competition, the Transaction will enhance wholesale competition by creating the first scaled wholesale competitor to BT/Openreach, including in overlap areas.

4.4 The Transaction will generate significant efficiencies in the wholesale market to the benefit of ISPs and end consumers

(157) As described in Section 2 above, the Transaction will generate REEs and RCBs material to the CMA's competitive assessment. In the wholesale market, it creates a scaled, financially

[175] BT/Openreach FTTP availability is assessed at the postcode level.

[176] As discussed in paragraph (151) above, Birmingham is the local authority area in which the Parties have the greatest number of overlapping premises (mainly between Netomnia and VMO2 FTTP premises) relative to other local authority areas.

sustainable challenger to BT/Openreach by unlocking Substantial's competitive potential and realising scale economies across the Parties' combined network footprint.[177]

(158) These efficiencies have both a local and national impact. On a local basis, they will result in greater network density in areas of Netomnia network presence throughout the country. Without prejudice to the Parties’ position that competition is national, these efficiencies will offset any putative loss of competition in the local areas they will impact. With respect to national impact, they will create a scaled, credible wholesale alternative that induces BT/Openreach to improve pricing and roll-out pace across the UK.

5 Theory of Harm 2: No SLC in the retail market

(159) The Parties consider that the Transaction will not lead to an SLC in relation to retail broadband on any plausible basis. The retail broadband market is characterised by intense competition from large national ISPs, the Parties’ combined national shares are modest (at c. [20-30] **[REDACTED]**% with a *de minimis* increment of c. [0-5] **[REDACTED]**%),[178] and VMO2 and YouFibre offer different product propositions. In any case, by virtue of the REEs at the wholesale level which will be passed on to the retail level, the Transaction will enhance retail competition.

5.1 The Parties’ views on the relevant market definition

5.1.1 Product frame of reference

(160) The Parties submit that the relevant product market is for retail fixed broadband of all speeds and all broadband technologies (i.e. including Asymmetric Digital Subscriber Line (“**ADSL**”), HFC, and FTTP), for both business and residential customers, in line with CMA precedent on this market.[179] VMO2 and Substantial’s ISP YouFibre are both active in this product market.

5.1.2 Geographic frame of reference

(161) The Parties consider that the market for retail fixed broadband is national (i.e. UK-wide) in scope.[180] While from a consumer perspective fixed broadband supplied in one location is not a substitute for fixed broadband in a different location, the fundamental conditions of competition are national:

(i) The major ISPs (including BT, VMO2, TalkTalk, Sky and VodafoneThree) which make up the majority of the market (with combined shares of 86%)[181] as well as other smaller ISPs (such as Zen Internet) mostly operate on a nationwide basis.

(ii) The widespread availability of BT/Openreach’s network across the country, which is used by all major national ISPs, supports the ubiquitous presence of the large national ISPs that rely on the BT/Openreach network. Other retail ISPs can readily

[177] FMN, paragraph 925.

[178] This share of supply includes VMO2’s share of supply on a conservative basis notwithstanding that VMO2 is a third party to the Transaction.

[179] For example, the CMA in *Hutchison 3G UK/Transvision Investments* (see paragraph 39) considered the market for the supply of retail fixed broadband services in the UK. Likewise, in Liberty Global/Telefónica, the CMA noted the merging parties’ activities in retail fixed broadband.

[180] This is in line with the CMA’s decisional practice in *BT/EE* (see paragraphs 19.39 – 19.52), where it found that most of the UK (excluding the Hull area) is in the same geographic market.

[181] These shares are calculated using data as at the end of 2025. These, therefore, differ slightly from the retail shares submitted in Table (XII) of the FMN, which uses data from various points throughout 2025.

operate nationwide and expand into new geographic areas if they choose to, using BT/Openreach's published and regulated national wholesale access offer.

(iii) Retail pricing is generally set by major ISPs on a primarily national basis. Many ISPs such as YouFibre, TalkTalk, EE and Community Fibre price on a uniform national basis. For ISPs where there is some geographic variation, this is likely to occur at a relatively aggregate level given the significant costs involved with administering more fragmented local pricing and the lost opportunities for greater price flexing on an ad hoc basis, e.g. to offer customers cheaper prices to stay rather than switch providers.

(iv) **[REDACTED]**.

(v) Other key parameters of retail competition, like customer service, quality, installation experience, reliability, "hard" and "soft" add-ons, are similarly predominantly national in nature.

(vi) The Parties' competitor monitoring (including price monitoring) is undertaken at a largely national level. Similarly, industry analysts invariably assess competition at a national level.

(162) The national nature of competition in retail broadband is consistent with the CMA's prior decisional practice: in *BT/EE*, the CMA found that most of the UK (excluding the Hull area) is in the same geographic market. The CMA in *Hutchison 3G UK/Transvision Investments*[182] also assessed the impact of that merger on the supply of retail fixed broadband services in the UK.

5.2 No SLC arises in retail broadband

5.2.1 The Parties have modest combined national shares and there is intense competition from national ISPs

(163) Retail competition is characterised by intense competition from major ISPs, with retail prices declining in recent years.[183] Large ISPs such as VodafoneThree, Sky, BT/Openreach and TalkTalk are highly aggressive and provide a strong competitive constraint on VMO2's offering.

(164) Substantial's retail broadband activities, carried out through YouFibre, are small at the national level, accounting for c. [0-5] **[REDACTED]**% of the national retail fixed broadband market. Post-Transaction, VMO2's combined national share would remain modest at c. [20-30] **[REDACTED]**%, with only a *de minimis* increment from YouFibre. VMO2 will continue to face material competitive constraints post-Transaction from established national ISPs like: BT (c. [30-40] **[REDACTED]**%), Sky (c. [20-30] **[REDACTED]**%), TalkTalk (c. [5-10] **[REDACTED]**%) and VodafoneThree (c. [5-10] **[REDACTED]**%), together with a collective constraint from myriad smaller ISPs.[184]

(165) Further, the Parties note that there is significant potential for entry to the highly competitive retail market by other players with a direct consumer relationship, such as utility providers, fintech firms and content providers (such as media organisations and digital content

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[182] *Hutchison 3G UK/Transvision Investments,* decision available here: Hutchison 3G UK / Transvision Investments merger inquiry: full text decision.

[183] See Sustained decline: UK broadband trends Q3 2025 | Enders Analysis (2025-108).

[184] See footnote 181.

publishers). Tesco Mobile, for example, is reportedly considering a move into offering retail broadband services.[185]

5.2.2 VMO2 and YouFibre offer different product propositions and are not particularly close competitors

(166) VMO2 offers a premium proposition, with a focus on bundles (including mobile services as well as a wide variety of entertainment packages); it is targeted at customers who value a one-stop-shop broadband/entertainment solution and a trusted brand. VMO2 therefore competes most closely with these large ISPs, such as Sky, BT/EE and VodafoneThree, which offer similar product propositions (including multi-product packages).

(167) Conversely, YouFibre aims at a different audience, with a no-frills, value offering targeted at customers motivated by low prices and high speeds. This is consistent with altnets more generally, which tend toward similarly high-speed, low-cost offerings.

(168) The lack of competitive closeness between VMO2 and YouFibre is evidenced by the competitor monitoring in VMO2's internal documents. VMO2 identifies **[REDACTED]** as its primary competitive set within the retail fixed broadband market. VMO2 tends to monitor these large ISPs most closely, **[REDACTED]**

5.2.3 YouFibre does not constitute a particularly close pricing constraint on VMO2

(169) YouFibre does not impose a particularly close price constraint on VMO2's retail offering. YouFibre competes on price where it is available, but the evidence indicates that it sits within the range of pricing by national ISPs and other altnets, rather than acting as a particularly lower-price constraint.

(170) The evidence indicates that YouFibre is not unique in its pricing position and is relatively aligned with, or more expensive than, the pricing strategies of other ISPs. For example, YouFibre's Q4 2025 ARPU was £25.33,[186] and in March 2026, YouFibre's entry price (for 200 Mbps broadband) was £20 per month.[187] Similarly, in 2025, Community Fibre's ARPU was £23 per month and the average entry price from altnet-backed ISPs was £19 per month.[188] Although these other altnets are typically not present in overlap areas, they are present in VMO2 areas: and given VMO2's predominantly national pricing strategy will therefore continue to constrain VMO2's national offer post-Transaction. Moreover, even within overlap areas, the constraint from YouFibre is not unique: with similarly priced gigabit speed headline offers available from multiple national ISPs who predominantly or exclusively use the BT/Openreach network. For example, Sky offers Full Fibre 900 from £28/month[189] and Vodafone offers 910 Mbps from £24/month[190]; which compares to YouFibre's 1 GBps offer starting from £28/month.[191] The evidence therefore suggests that YouFibre is not uniquely priced nationally or in overlap areas.

(171) **[REDACTED]**.[192]

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[185] See Tesco Mobile Ponders Giffgaff Style Foray into UK Home Broadband - ISPreview UK.

[186] FMN, paragraph 806.

[187] FMN, paragraph 382.

[188] FMN, paragraphs 62 and 686.

[189] See Sky's website here: Browse Sky's Best Deals on TV, Broadband & Mobile (accessed on 19/07/2026).

[190] See Vodafone's website here: Full Fibre Broadband Deals - FTTP | Vodafone UK (accessed on 19/07/2026).

[191] See YouFibre's website here: YouFibre | Ultra-Fast Full Fibre Broadband (accessed on 19/07/2026).

[192] FMN, paragraph 812; Response to RFI 3 Q1 – 4. Specifically, in acquisition pricing models, VMO2 considers the pricing activity of Sky, EE and Vodafone, as well as Openreach and CityFibre to be key determinants of the model, whilst

(172) Post-Transaction, strong price pressure will persist both nationally and in areas where YouFibre overlaps with nexfibre/VMO2, as Openreach's FTTP network is present in at least **[REDACTED]**% of nexfibre/VMO2's footprint and **[REDACTED]**% of the overlap areas.[193] Furthermore, Openreach's FTTP network is expected to fully overbuild nexfibre/VMO2's network in the near future.[194] **[REDACTED]**. Moreover, VodafoneThree and Sky are likely to continue offering aggressive discounts which will impose significant price pressure on VMO2, as they have done in the past.[195]

(173) Overall, the pricing evidence shows that YouFibre does not impose a particularly close price constraint on VMO2's retail offer. Post-Transaction, VMO2 will continue to face price pressure from national ISPs and from remaining altnets where they are available. In any event, to the extent that YouFibre imposes any local competitive pressure, that constraint will be offset by the onboarding of third-party ISPs onto the Parties' discounted wholesale FTTP network (as described in Section 6 below).

5.2.4 Switching data does not suggest that VMO2 and YouFibre are particularly close competitors

(174) As explained at paragraph (161) above, the major ISPs including VMO2 consider competitive conditions and set their main competitive parameters primarily at the national level. At this level, the share of VMO2 One Time Switching ("**OTS**") leavers switching to YouFibre is low (circa **[REDACTED]**%). This compares to circa **[REDACTED]**% and circa **[REDACTED]**% of leavers switching to Sky and BT respectively.

(175) VMO2 does not consider competitive conditions at a granular geographic level (e.g., postcode sector) in the ordinary course of business. Nonetheless, evidence from VMO2's switching data is consistent with the general pattern that, where alternative FTTP ISPs are available, that FTTP operator can attract a considerable share of customers switching away from VMO2. Historically, VMO2 had a performance advantage over rival ISPs as a result of the superiority of HFC over FTTC/copper. As a result, a relatively material proportion of its installed base was attracted to VMO2 by its superior speeds. Where FTTP has been deployed in VMO2 areas (mostly by BT/Openreach FTTP, which has already overbuilt c. **[REDACTED]**% of the overlap areas), this advantage is permanently eroded and VMO2 typically sees **[REDACTED]**.

(176) However, the absolute scale of switching from VMO2 to YouFibre is very low when measured against VMO2's overall customer base. **[REDACTED]**[196]

(177) BT/Openreach FTTP is present in nearly all (circa **[REDACTED]**%) of the overlap areas between VMO2 and YouFibre.[197] **[REDACTED]**

(178) The fact that Openreach FTTP imposes such a strong constraint on VMO2 means there is relatively limited incremental pricing impact in areas where there is another altnet (including

Netomnia's retail brands have been featured in very limited circumstances over the last two years. Regarding VMO2's retention models, Netomnia's retail brands have only featured in one (out of three) of the models and has a very negligible impact.

[193] Based on the Parties' internal footprint data and May 2026 Point Topic availability data (which is subject to lags in tracking network build status, as noted in Response to RFI 1 Q9).

[194] See FMN, paragraph 667. Openreach aims to have upgraded 30 million premises to FTTP by the end of the decade.

[195] See FMN, paragraphs 737 – 739. VMO2 closely monitors the pricing strategies of national ISPs as they are considered closer competitors, whilst altnets, including YouFibre/Brsk ISP, are not considered to be as material.

[196] **[REDACTED]**

[197] See footnote 13.

YouFibre) in addition to retail ISPs using the Openreach network, compared to areas where there are only those retail ISPs on Openreach. Given that Openreach's FTTP network is currently present in circa 90% of the postcodes where the Parties overlap,[198] a figure expected to increase as Openreach continues to aggressively upgrade its network, any competitive pressure lost from YouFibre will be materially mitigated by the presence of the national ISPs through Openreach.

(179) Taken together, the OTS evidence is consistent with the Parties' position that YouFibre is not a particularly close competitor to VMO2. YouFibre's lack of a bundled offer means that it is unlikely to present a good alternative for many VMO2 customers, and its limited geographic footprint means that overall losses to YouFibre are *de minimis*: particularly when viewed in the context of losses to other national ISPs and VMO2's own customer base.

5.2.5 [REDACTED]

(180) Altnets, including YouFibre, have gained customers from national ISPs in recent years on the back of aggressive acquisition pricing. This is expected to be unsustainable going forward.

(181) **[REDACTED]**

(182) Current levels of aggressive altnet pricing are not sustainable against a backdrop of deteriorating market conditions, pricing pressure and high cost of debt, and industry commentators expect that their ultra-low pricing and declining ARPUs will ultimately not last.[199] Initial heavily-discounted prices helped drive the customer acquisition required for the altnets to enter the market and attempt to recoup the investment made in building their FTTP networks. Whilst some altnets are approaching or have reached EBITDA profitability, this falls well short of cashflow breakeven, as it does not cover the cost of servicing the debt incurred in existing FTTP roll-outs, still less the financing of future roll-out plans. **[REDACTED]**

(183) **[REDACTED]**

5.3 Efficiencies unlocked by the Transaction will enhance retail competition

(184) Post-Transaction, retail ISPs accessing nexfibre's wholesale proposition will benefit from wholesale prices set at a discount to BT/Openreach's rates, reducing the input costs faced by those ISPs relative to a scenario in which they continued to purchase WLA services from BT/Openreach in overlap areas. Lower input costs will in turn enable those ISPs to offer more competitive retail pricing, such that the enhanced retail price competition will place an effective and increased constraint on the Parties in all overlap areas post-Transaction and remove any opportunity for the Parties to raise prices in those overlap areas.[200] This enhanced retail price competition will equally strengthen retail competition in non-overlap areas. **Figure (6)** below illustrates how this creation of wholesale competition translates into enhanced retail competition across all areas:

Figure (6): Enhanced retail competition as a result of the Transaction[201]

(185) These price reductions are rivalry-enhancing in the retail market. Indeed, the Parties' analysis demonstrates that **[REDACTED]** and **[REDACTED]** would be able to price closer

[198] See footnote 13.

[199] **[REDACTED]**

[200] FMN, paragraphs 74 and 814. See also RBB Economics, Quantification of Pro-Competitive Efficiencies, Section 4.

[201] Third-party ISPs may also use Openreach to some extent post-Transaction.

to Netomnia's (YouFibre) and VMO2's current levels post-Transaction even under a **[REDACTED]**% pass-through rate. At a **[REDACTED]**% pass-through rate, **[REDACTED]** would offer cheaper prices than either Party. The Transaction will therefore allow retail ISPs to compete more aggressively across the Netomnia network footprint (i.e., in every overlap area).

(186) As a result, any hypothetical reduction of competition will be offset by increased competition from other retail ISPs that benefit from lower wholesale prices on the Merged Entity's network, ensuring that the Transaction has a pro-competitive effect on retail competition.

6 Theory of Harm 3: interconnectedness between the retail and wholesale levels of the supply chain

(187) The CMA's Areas of Focus indicates that the CMA competitive assessment of the Transaction will consider the links between the wholesale and retail broadband levels of the supply chain as well as the competitive effects of VMO2 and Substantial's vertical integration.[202] Specifically, the CMA notes that it will consider:

(i) whether the Parties' presence at the retail level affects their incentives to compete at the wholesale level (e.g. due to the potential cannibalisation of their retail customer base); and

(ii) whether competition between the Parties at the wholesale level could have material indirect effects on competition at the retail level (e.g. if Substantial were to offer competitive wholesale terms to ISPs absent the Transaction).

(188) With respect to point (ii), the Parties agree with the CMA that competition at the wholesale level is an important determinant of competition at the retail level. However, the Transaction will enhance competition in retail broadband in the form of lower prices and more intense competition between ISPs using the Merged Entity's footprint, for the following reasons:

(i) The Transaction will not result in any loss of wholesale competition between Substantial and nexfibre compared to the counterfactual. As outlined in further detail in Section 3 above, whilst Netomnia has explored expanding its presence in wholesale, it would not become a credible, material WLA provider in the counterfactual This is reinforced by the historical evidence on discount levels: **[REDACTED]**[203]

(ii) As explained previously, the Transaction will create a credible and sustainable wholesale alternative to BT/Openreach for the first time in the UK, directly increasing competitive options for every major national ISP. More ISPs will join nexfibre's network over a larger footprint benefitting from material wholesale line rental discount on the Parties' network vis-à-vis Openreach prices. **[REDACTED]**[204]

(iii) ISPs will therefore benefit from this. Where ISPs realise better wholesale prices, the evidence indicates that they use those to aggressively compete for retail customers. As more fully explained in Section 5.3 above, this will result in an increase in price competition in the retail broadband market.

[202] CMA Area of Focus, paragraph 31.

[203] See **[REDACTED]** and FMN, paragraph 544.

[204] See FMN, paragraph 419.

(189) The remainder of this Section considers nexfibre's incentives to wholesale, explaining *inter alia* that:

(i) nexfibre is a wholesale-only player with a commercial imperative to actively wholesale to all ISPs and to maximise utilisation of its FTTP network. nexfibre is independent from, and has an arm's-length relationship, with VMO2.

(ii) InfraVia, as an independent co-controlling shareholder in nexfibre, has no economic interest at the retail level and its sole focus is in maximising nexfibre's wholesale revenues. InfraVia benefits from robust governance protections to ensure that its significant circa £1 billion investment in nexfibre is protected. nexfibre's strong incentives to wholesale are, therefore, a function of its corporate structure.

(iii) The rationale for the Transaction, including InfraVia's circa £1 billion investment, is to transform the competitiveness of nexfibre in the wholesale market to deliver credible and sustainable competition to BT/Openreach. This can only be achieved by nexfibre actively wholesaling to ISPs on attractive terms.

6.1 nexfibre has clear incentives to compete at the wholesale level by offering attractive terms to ISPs

6.1.1 nexfibre is a wholesale-only player with a commercial imperative to actively wholesale to all ISPs

(190) While nexfibre and VMO2 are marketing their wholesale offering as a combined proposition to ISPs, and there is an indirect shareholder overlap insofar as Liberty Global and Telefónica indirectly hold a 50% shareholding in nexfibre, the economic incentives of nexfibre and VMO2 must be clearly delineated. As the acquirer of the Substantial network assets, it is nexfibre's incentives to wholesale its post-Transaction footprint (encompassing its existing footprint, Substantial's footprint **[REDACTED]**) which are relevant for considering the potential competition effects of the Transaction.

(191) nexfibre was founded in 2022 as a joint venture between Liberty Global, Telefónica and InfraVia, established to serve as a national-scale challenger to BT/Openreach by providing a comprehensive, full-fibre infrastructure platform for all ISPs and businesses. It has been and remains a wholesale-only player with a commercial imperative to actively wholesale to all ISPs and to maximise utilisation of its FTTP network. nexfibre is not, and will not post-Transaction, be vertically integrated with any retail broadband business (including VMO2's retail business).

(192) InfraVia, as an independent co-controlling shareholder in nexfibre, has no economic interest at the retail level and its sole focus is in maximising nexfibre's wholesale revenues. InfraVia benefits from robust governance protections to ensure that its significant circa £1 billion investment in nexfibre is protected. nexfibre's strong incentives to wholesale are, therefore, a clear function of its corporate structure.

(193) Despite having every incentive to do so and **[REDACTED]**[205]

6.1.2 Maximising wholesale revenues with competitive offers to third-party ISPs is intrinsic to the Transaction rationale, investment thesis and business plans

205 Tier 1 ISPs are the large national retail ISPs **[REDACTED]** such as VodafoneThree, TalkTalk/PXC and Sky. Tier 2 ISPs are smaller retail ISPs **[REDACTED]**

(194) As extensively evidenced in nexfibre's internal documents, business plans and investment thesis,[156] the entire rationale for this Transaction, including InfraVia's significant circa £1 billion investment (see Section 6.1.3 below), is to transform the competitiveness of nexfibre in the wholesale market – through maximising wholesale business from third-party ISP customers – with the aim of delivering credible and sustainable competition to BT/Openreach. The business plan for nexfibre post-Transaction is predicated on maximising network utilisation by actively pulling in wholesale volumes from a wide array of ISPs, **[REDACTED]** According to these internal assessments, the combination is explicitly intended to **[REDACTED]**[206]

(195) **[REDACTED]**[207] [208]

(196) **[REDACTED]**[209]

(197) Ultimately, the Transaction investment case for nexfibre is predicated on maximising network utilisation by attracting wholesale volumes from a range of ISPs, **[REDACTED]** Any strategy that restricted access for third-party ISPs would undermine that core economic imperative.

6.1.3 InfraVia's return on its circa £1 billion investment relies on maximising wholesale revenues

(198) InfraVia, as an independent co-controlling shareholder in nexfibre, has no economic interest at the retail level and its sole focus is in maximising nexfibre's wholesale revenues. Any above-market pricing strategy (or other form of uncompetitive terms) offered by nexfibre's wholesale business would materially harm InfraVia's financial return. InfraVia therefore has a strong, independent financial incentive to resist any putative pricing or commercial strategy that would reduce the competitiveness of nexfibre's wholesale proposition and would thus reduce nexfibre's wholesale revenues. InfraVia benefits from robust governance protections to ensure that its significant circa £1 billion investment in nexfibre is protected.

(199) InfraVia's internal documents evidence that delivering a credible wholesale alternative to BT/Openreach is central to its investment thesis: **[REDACTED]** [210] [211]

(200) These commercial realities create a built-in financial incentive for nexfibre to offer its wholesale services on highly competitive terms post-Transaction. **[REDACTED]**[212] [213]

(201) As evidenced in nexfibre's post-Transaction business plan, if nexfibre does not offer wholesale services to third-party ISPs, there would be **[REDACTED]**[214] **[REDACTED]**[215]

6.2 nexfibre's robust shareholder and governance protections mitigate any ability to discriminate against third-party ISPs

(202) Any putative hypothetical incentive for nexfibre to pursue a strategy which is not profit-maximising at the wholesale level post-Transaction is mitigated by: (i) nexfibre's robust

[206] Annex 8.B.1.016, page 2; Annex 8.B.1.013, page 7.

[207] FMN, paragraph 875; Annex 8.B.1.008.

[208] FMN, Annex 8.B.1.008. See also the nexfibre Incentives to Wholesale Paper, section 2.2.

[209] FMN, Annex 8.B.1.008.

[210] See Annex_WI_1.01, slide 9.

[211] **[REDACTED]** See Annex_WI_1.01, slide 15.

[212] See Annex_WI_1.01, slides 10, 11 and 12.

[213] **[REDACTED]** See Annex_WI_1.01, slide 12.

[214] FMN, Annex 8.B.1.008.

[215] **[REDACTED]** See Annex_WI_1.01, slide 17.

corporate governance and arm's-length framework ensuring its operational independence from VMO2;[216] and (ii) InfraVia's shareholder rights afforded to protect its financial return and designed to allow it to monitor/control nexfibre's wholesale strategy.

(203) As outlined in Section 6.1.3 above, InfraVia's return on its significant £1 billion equity investment in nexfibre is directly tied to nexfibre's wholesale performance. By extension, and underpinned by the governance rights, InfraVia's presence serves as an automatic check against any strategy to degrade the merged entity's wholesale terms, as its financial returns are tied directly to the value of nexfibre as an open wholesale infrastructure platform rather than the retail success of VMO2.

(204) InfraVia (which has no interest in VMO2) has typical fundamental shareholder protections in light of its significant investment in nexfibre[217], **[REDACTED]**[218]

(205) The combined effect of the shareholder and corporate governance protections is that Liberty Global and Telefónica (whether as shareholders or via their nominated directors) cannot act independently of InfraVia **[REDACTED]**. Each of these actions requires the support of InfraVia and/or the support of its nominated directors; this ensures the protection of InfraVia's financial interests as regards recouping a return on its material circa £1 billion investment in nexfibre, as well as ensuring that material decisions regarding nexfibre's business are taken in agreement between the HoldCo and InfraVia shareholders.

(206) The post-Transaction shareholding structure and management incentivisation plan – as well as InfraVia's circa £1 billion equity investment – have all been structured to seek strategic and economic alignment across the shareholders and management of nexfibre, so that they are all driven to maximise nexfibre's wholesale revenues from third-party ISP customers.

(207) **[REDACTED]**

6.3 VMO2 and nexfibre's ongoing negotiations with ISPs provide clear real-world evidence of a commitment to offering ISPs attractive wholesale terms

(208) VMO2 and nexfibre's ongoing negotiations with **[REDACTED]** (as well as with other ISPs), represent compelling real-world evidence of their enduring commitment to offering attractive wholesale terms to ISP customers.

(209) The negotiations between nexfibre or VMO2 and **[REDACTED]** provide the clearest direct evidence for the merged entity's strong incentives post-Transaction to wholesale on attractive economic terms. The principal commercial terms, including **[REDACTED]**% rental rate discount compared to BT/Openreach's Equinox 2 **[REDACTED]**, were agreed in principle as long ago as 2024 **[REDACTED]**

(210) **[REDACTED]**[219]

(211) **[REDACTED]**[220]

6.3.1 Quantitative analysis evidences nexfibre's incentives to wholesale

[216] For example, under the related-party arrangements regime in the SHA, **[REDACTED]** See Section 6 of the nexfibre Incentives to Wholesale Paper for further details.

Similarly, with respect to VMO2, there is robust structural separation between VMO2's fixed wholesale and retail divisions.

[217] **[REDACTED]**.

[218] See Annex 2.004 to the FMN for further details on the Transaction structure.

[219] **[REDACTED]**

[220] See nexfibre Incentives to Wholesale Paper, paragraph 24.

(212) Consistent with the demonstrable real-world evidence above of nexfibre's commitment to wholesale, an illustrative quantification carried out by RBB demonstrates that nexfibre has clear incentives to wholesale its FTTP network post-Transaction reflecting the significantly greater penetration it can achieve via third-party ISPs compared to what it can achieve by itself.[221]

(213) Even upon entirely setting aside the commercial realities of the VMO2 and nexfibre's legal and commercial independence and their corporate governance ownership structure, and assessing the wholesale incentives as if nexfibre were hypothetically vertically integrated as a result of the Transaction, the long-term incentive for nexfibre to wholesale its post-Transaction footprint remains.

(214) The results of the quantitative verticals analysis demonstrate that – even applying certain conservative assumptions – nexfibre's long-term incentive is clearly to wholesale.[222] Under a 75% pass-through rate, wholesale gains begin to outweigh retail losses **[REDACTED]**), reflecting the fundamental asymmetry of the network economics. The retail cost of wholesaling is bounded by VMO2 and YouFibre's expected penetration on the FTTP footprint, while the wholesale benefits and opportunity draws on a much larger pool of customers currently served by rival ISPs on BT/Openreach. The long-term incentive is therefore to wholesale, even accounting for retail losses incurred in early years.

(215) This is the same logic the CMA accepted in its assessment of the *VodafoneThree* merger, where it recognised that a vertically integrated wholesaler (in that case, an MNO) that fails to offer competitive wholesale terms "*still risks losing retail customers, but without any revenue upside*", because the wholesale customer (in that case, a mobile virtual network operator ("**MVNO**")) would obtain services from a rival wholesaler in any event.[223] The same applies here: declining to supply a third-party ISP does not completely avoid the associated retail loss where that ISP can obtain wholesale access from BT/Openreach, but forgoes the wholesale revenue. In this context, the incentive to wholesale fundamentally depends on the margin on each unit sold at wholesale level, the likelihood of retail cannibalisation to other ISPs on nexfibre's network, the lost retail margin on cannibalised units, wholesale costs (also including negotiation and implementation costs), and the likelihood of churn to ISPs on the BT/Openreach FTTP network.

6.3.2 VMO2 also has strong incentives to wholesale

(216) As noted above, it is nexfibre's incentives to wholesale its post-Transaction footprint (encompassing its existing footprint, Substantial's footprint **[REDACTED]**) which are relevant for considering the potential competition effects of the Transaction. Notwithstanding this primary caveat, the Parties explain below that VMO2 also has incentives to wholesale its Fibre Up footprint (independently and jointly with nexfibre's FTTP footprint) as an ancillary matter and for completeness.

(217) As outlined further below, VMO2's internal documents – as well as the quantitative analysis conducted by RBB – evidence that VMO2 has a long-run incentive to wholesale its Fibre Up network as the wholesale economic gains are expected to outweigh any economic losses at the retail level from doing so.[224] The underlying economic rationale behind VMO2's incentives to wholesale its broadband network mirrors its long-standing strategy in the

[221] See Section 4 of the nexfibre Incentives to Wholesale Paper for further details.

[222] See Section 4 of the nexfibre Incentives to Wholesale Paper for further details.

[223] CMA Final Report, *Vodafone/Three*, paragraph 9.216(e).

[224] See Section 4.4. of the nexfibre Incentives to Wholesale Paper.

mobile market where VMO2 actively pursues deals in respect of its wholesale services to mobile virtual network operators (MVNOs) in direct competition with its own retail mobile offering.[225]

(218) Critically, VMO2's FTTP network upgrade is essential to attract wholesale customers, since there is no market demand for wholesale HFC in the UK. Because FTTP upgrade requires high upfront capital expenditure with substantially lower marginal costs of adding customers, the only way to achieve a return on that investment is to generate additional revenue through wholesale demand, making wholesaling not merely attractive but commercially necessary.

(219) VMO2's historical competitive advantages in retail fixed broadband have eroded materially, making wholesale an increasingly important avenue for driving network utilisation, supporting future fibre investment, and sustaining the economics of its fixed broadband business. VMO2's HFC network once offered a clear performance advantage over BT/Openreach's copper network, but the widespread deployment of FTTP has fundamentally changed the competitive landscape.[226] VMO2's retail business, therefore, competes at a growing disadvantage to FTTP rivals on its largely HFC infrastructure, and absent the fibre upgrade that wholesale revenues would help to fund, it would need to compete increasingly on price to retain customers.

(220) With the erosion of these historical retail advantages, VMO2's one remaining significant asset is its own physical infrastructure at approximately 60% national coverage, and wholesale is the mechanism through which it can leverage that infrastructure, accessing alternative customer bases, brands, and acquisition channels. Concerns about retail cannibalisation, in this case, do not undermine VMO2's incentive to wholesale: rival ISPs can obtain discounted wholesale access from BT/Openreach regardless, meaning that refusing to wholesale does not avoid retail competition but simply forgoes the wholesale revenue that would otherwise accompany it.

(221) **[REDACTED]**

(222) The results of the quantitative verticals analysis for VMO2 conducted by RBB indicate that, similarly to the incentives for a hypothetical vertically integrated nexfibre, VMO2 alone also has the long-term incentive to wholesale. In fact, VMO2 has even stronger incentives to wholesale its Fibre Up network. **[REDACTED]**.[227]

(223) Finally, it should be noted that, consistent with the strategic imperative to monetise its broadband network through wholesaling, VMO2 (as well as nexfibre) has invested heavily in preparing their business for third-party ISP wholesale, **[REDACTED]**

7 Conclusion

(224) As explained above, the Transaction does not give rise to an SLC on any plausible basis in any retail or wholesale broadband market in the UK. To the contrary, the Transaction will drive benefits that will enhance competition at the retail and wholesale levels, lower prices and improve the quality, reliability and range of broadband products by: (i) transforming nexfibre, an altnet suffering from existential challenges of high debt and low penetration, into a more effective and financially sustainable wholesale challenger to BT/Openreach; (ii)

[225] See paragraph 59 of the nexfibre Incentives to Wholesale Paper.

[226] By March 2026, approximately **[REDACTED]**% of VMO2's network was overbuilt by FTTP, meaning the vast majority of households it serves now have access to at least one FTTP alternative.

[227] See Section 4.4 and paragraph 136 of the nexfibre Incentives to Wholesale Paper.

accelerating the take-up of FTTP infrastructure and infill coverage gaps across the UK; and (iii) supporting continued investment and innovation in gigabit-capable networks, thereby strengthening competition and delivering tangible benefits in terms of greater choice, higher-quality and improved broadband services for consumers, businesses and ISPs. This accords with the UK Government's primary mission of economic growth,[228] the CMA's strategic priority to support economic growth and investment,[229] and Ofcom's regulatory objectives for nationwide gigabit-capable connectivity to support the growth agenda.[230]

[228] Kickstarting Economic Growth - GOV.UK.

[229] See e.g. New CMA proposals to drive growth, investment and business confidence – Competition and Markets Authority; and CMA Annual Plan 2025 to 2026 - GOV.UK.

[230] See Growth duty - GOV.UK and The Economic Growth (Regulatory Functions) Order 2017 as amended by the Economic Growth (Regulatory Functions) (Amendment) Order 2024.