



Internet Telephony Services Providers' Association

ITSPA position to the European Commission surrounding the proposed merger of Hutchison 3G UK Investments Limited ("Three"), and Telefónica Europe Plc ("O2").

About ITSPA

The Internet Telephony Services Providers' Association (ITSPA) represents over 80 UK businesses involved with the supply next generation communication services over data networks to industry and residential customers within the UK. Our traditional core members are VoIP providers. ITSPA pays close attention to both market and regulatory framework developments on a worldwide basis in order to ensure that the UK internet telephony industry is as competitive as it can be within both national and international markets.

Please note that certain aspects of the ITSPA response may not necessarily be supported by all ITSPA members. Individual members may respond separately to this consultation where a position differs. However the ITSPA Council is confident that this response reflects the views of the overwhelming majority of ITSPA members.

A full list of ITSPA members can be found at <http://www.itspa.org.uk/>

Introduction

This is a short paper that provides an overview of views expressed by the membership, concerning the merger of Three and O2. Our response is set within backdrop of wider market consolidation, including the proposed merger with BT/EE transaction that is currently being reviewed by the Competition and Markets Authority and the proposed asset swap between Vodafone and Liberty Global. ITSPA would happy to discuss these issues in more depth with the Commission if required.

Key Points

1. The proposed merger between Three and O2 must to be taken into context with the wider market consolidation currently taking place in the UK market. ITSPA members have major concerns around the proposals.



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2. ITSPA members believe there are already serious competition issues within the current UK mobile market that need to be resolved and which could be made worse by further consolidation.
3. The mobile market is generally foreclosed already to other operators through contractual limitations on over the top services or restricting access to 4G. Despite the claims of various MNOs engaged in consolidation currently, there is a highly restricted wholesale market for MVNOs which needs addressing.
4. This would be constricted even further if the two proposed mergers take place. The outcome will be two Mobile Network Operators, ("MNOs"), (Vodafone and BT) who are converged, vertically integrated fixed/mobile players operating on their own networks, and a third that is the combined O2 and Three. This is both a vertical and a horizontal concentration.
5. Access for Mobile Virtual Network Operators ("MVNOs") to MNO supply will also be restricted, and current trends by which MNOs are restricting MVNO competition are likely to increase. This in turn would, evidently, reduce competition and result in an upward pricing pressure to the detriment of consumers and innovation.
6. Evidence from other markets suggest that mobile consolidation inevitably leads to significant price rises which are inherently bad for consumers and not a sign of a competitive market (examples include in Austria¹ and Ireland² where similar mergers resulted in considerable price increases).
7. Furthermore, there are growing concerns about access to mast infrastructure within a shrinking number of MNOs that will hinder competition.
8. ITSPA's membership believes that the Wholesale Mobile Access market in the UK must be reviewed and effective remedies agreed immediately and before any consideration of further merger activity is approved. Only then can there be a guarantee that new services could

¹ <http://www.ft.com/cms/s/0/c60c18e6-1348-11e5-bd3c-00144feabdc0.html#axzz3mZigmYV9>

² http://www.telecomspricing.com/news_detail.cfm?item=11899



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potentially compete with the major MNOs. ITSPA member Gamma has produced a document that should be considered as potential remedies for the market. ITSPA supports the proposals contained within this document.

9. A fully functional Wholesale Mobile Access market would encourage innovation, encourage competition resulting in improved outcomes for UK consumers. Indeed the UK's mobile market could become as competitive and innovative as it is currently for fixed telephony.

10. If suitable remedies were adopted, some concerns amongst members around the proposed merger between Three and O2 and other similar market consolidation would be alleviated. However, at present there is a lack of to suggest that market consolidation to only three MNOs is good for the British consumer and their telephony market in the UK.