

## Effectiveness of MVNO wholesale access remedies

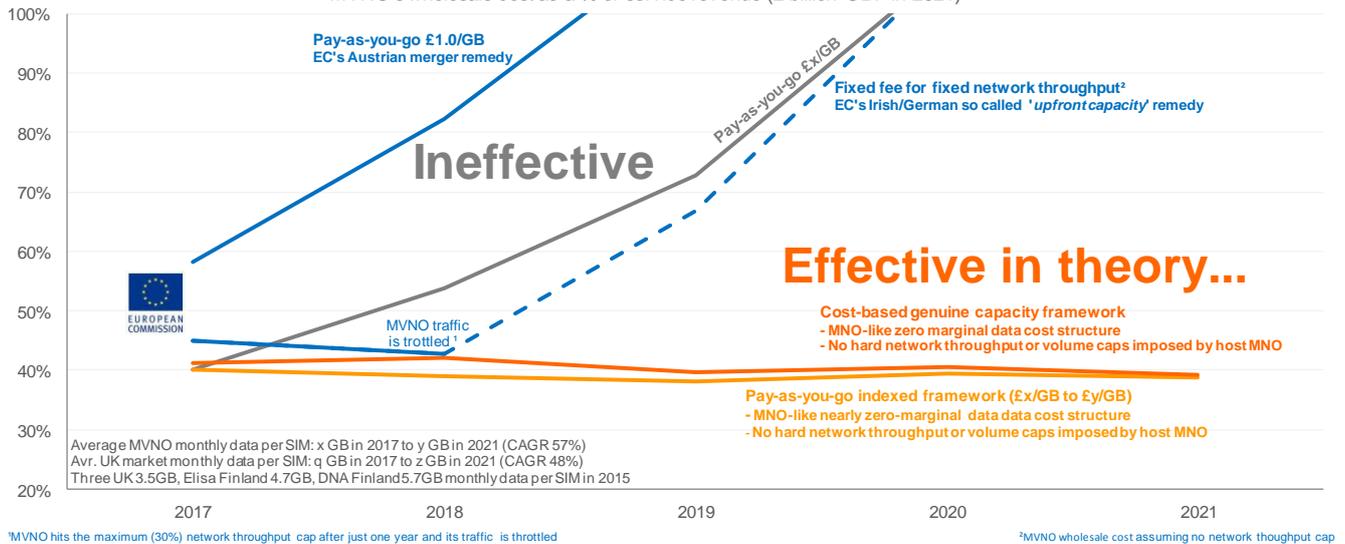
**Comprehensive analysis of commercial and merger mandated MVNO wholesale access frameworks and assessment of their efficacy in restoring effective competition in 4 to 3 mobile mergers**

- Case study: The 4 to 3 mobile merger in the UK – Hutchison’s acquisition of o2
- Are there any effective remedies that could remove the competition concerns entirely and restore effective competition in the UK mobile market?
- Should Commissioner Vestager block the Hutchison o2 merger in the UK?

Rewheel / Digital Fuel Monitor premium report, 25<sup>th</sup> January 2016

### UK merger mandated MVNO wholesale cost as a % of service revenue

An MVNO hosted on Hutchison-o2 UK network grows its market share from 5% to 15% in 2021. The chart depicts the MVNO’s wholesale cost as a % of service revenue (2 billion GBP in 2021)



## Context

Since 2012 we have witnessed a telecom consolidation wave across European national markets. The first wave (Austria in 2012, Ireland and Germany in 2014) concerned mergers that aimed to reduce the number of mobile network operators from 4 down to 3. The European Commission under the helm of Joaquin Almunia unlawfully cleared the 4 to 3 mobile mergers in Austria, Ireland and Germany on the sole basis of upfront MVNO wholesale access remedies and without demanding the upfront implementation of structural commitments (divestments) that would have created new fourth mobile network operator entrants. The second consolidation wave we are witnessing beside 4 to 3 mobile mergers (Denmark, UK, Italy, France, Spain, Poland, etc.) also concerns the take-over of mobile network operators by fixed-line incumbent operator groups (EE in the UK by British Telecom and Base in Belgium by Liberty Global). The European Commission under the helm of Margrethe Vestager effectively blocked the Telenor and TeliaSonera 4 to 3 mobile merger in Denmark in 2015 because the parties did not offer a significant remedy - the creation of a fourth mobile network operator - required by the significant competition concerns.

## Abstract

In this study we undertake a comprehensive conceptual analysis of commercial and merger mandated MVNO wholesale access frameworks and assess their efficacy in restoring effective competition in 4 to 3 mobile mergers. We demonstrate the ineffectiveness of the currently deployed MVNO wholesale access frameworks by presenting empirical market based evidences using an international benchmark of MVNO and MNO prices among EU28 countries. Having presented the intrinsic conceptual ineffectiveness of the currently deployed commercial and merger mandated MVNO wholesale access frameworks

and the empirical market based facts that support our conceptual analysis we put these models to the test by examining their effectiveness using a case study: the 4 to 3 mobile merger in the UK between Hutchison Three and Telefonica o2. In the next step we propose two new MVNO wholesale access remedies: a cost-based genuine capacity framework and a pay-as-you-go indexed framework that could, in theory at least, under certain strict conditions remedy the inherent material limitations of the so called '*upfront capacity*' MVNO frameworks which were incorrectly labelled effective by the European Commission and unlawfully used to clear the 2014 Irish and German 4 to 3 mobile mergers. In the final step we examine if there are any effective commitments (structural, behavioural or a combination thereof) that could remedy all the anti-competitive effects caused by the 4 to 3 Hutchison o2 mobile merger, remove the competition concerns entirely as the EU law prescribes, and restore effective competition in the UK mobile market by also considering the effects of the approved BT-EE fixed-mobile merger.

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