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The Commission's assessment of mobile telecom mergers: what have we learned?

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Sophie Moonen
Head of Unit – Mergers – Communications, IT and media
DG Competition, European Commission

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Trend towards consolidation

- Trend towards (in-country) consolidation in the telecom sector
  - Cable (Liberty/Ziggo)
  - Mobile (H3G/Orange Austria; H3G/Telefónica Ireland; Telefónica Deutschland/E-Plus; TeliaSonera/Telenor/JV; and the recently announced H3G/O2 in the UK)
  - Mobile-copper/fibre/cable (Vodafone/KabelDeutschland; Vodafone/ONO in Spain; Orange/Jazztel; Numéricable/SFR; Altice/Portugal Telecom; BT/EE; and the recently announced Liberty/Base in Belgium)

Recent mobile telecom mergers

Case	Description and outcome
TPG IV/Apax/Q-Telecom (2006)	4-3 in Greece; cleared unconditionally
T-Mobile/tele.ring (2006)	5-4 in Austria; cleared with remedies
T-Mobile/Orange NL (2007)	4-3 in the Netherlands; cleared unconditionally
T-Mobile/Orange UK (2010)	5-4 in the UK; cleared with remedies
H3G Austria/Orange Austria (2012)	4-3 in Austria; cleared with remedies
H3G UK/Telefónica Ireland (2014)	4-3 in Ireland; cleared with remedies
Telefónica Deutschland/E-Plus (2014)	4-3 in Germany; cleared with remedies
TeliaSonera/Telenor/JV (2015)	4-3 in Germany; ongoing

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Preliminary remarks

- No magic number of operators
- Each case on its merits and based on specificities of the national market
- Established framework of assessment
  - Outcome of its application may differ from case to case

Market definition in mobile telephony

Product markets

- **Retail market** for provision of mobile telecommunication services to end customers
  - No further split of the market according to business-private, pre-paid–post-paid, voice–data services, or based on technology (2G/3G/4G LTE) but analysis of different market segments
  - Wi-fi – mobile separate
  - OTT players separate
- **Wholesale market**: wholesale access and call origination on public mobile telephone networks
- **Multiple play market:** depends on country

Geographic scope: national

Spectrum for national territory
Mobile networks are national
→ consumers have no choice but to take national operator

Competitive assessment

Oligopolistic markets with high barriers to entry

- Market shares (also at the segment level)
- Closeness of competition
    - Important, but not necessary
- Important competitive force
    - "Gap" cases
    - Pre transaction and absent the transaction
- Merged entity's incentives to compete
- Competitors' ability and incentive of to react
    - MNOs
    - Non-MNOs
- Likely price increases

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Evidence

- Questionnaire to the Parties
- Replies to the market investigation
  - Difficult to gather consumers' feedback
- Internal documents
  - Resource intensive
  - Limited time
- Economic evidence
  - UPP analysis / merger simulation
  - Demand estimation

H3G/Orange Austria

Overview

A1	[~40-50]%
T-Mobile	[~30-40]%
Orange	[~10-20]%
Three	[~10]%

Merging Parties

- Negligible presence of Mobile Virtual Network Operators (MVNOs) – Vectone

Main findings

- Parties have high combined market shares and are close competitors in data segments, the most important and growing market segments
- Dynamic assessment: Three and Orange important for acquisition of new customers (market power greater than their market share on overall market)
- Orange and Three are important competitive forces
- Competitors likely to follow price increases
- No countervailing factors (no buyer power; no substantiated efficiency claims)

H3G/O2 Ireland

Overview

Vodafone	[~40]%
Three	[~10]%
O2 (incl. Tesco Mobile)	[~30]%
Merging Parties	
Eircom	[~20]%

- Negligible presence of Mobile Virtual Network Operators (MVNOs) – Tesco Mobile (JV of O2 and Tesco)
- Existing network sharing agreements (O2/Eircom and Three/Vodafone)

Main findings

- Three is an important competitive force (e.g. attractive data offers)
- Counterfactual: the parties would continue to invest and compete absent the merger
- Competitors likely to follow price increases
- MNO entry highly unlikely (high investment costs and low profitability)
- Weakening of Eircom due to degradation of network sharing
- Efficiencies not proven to a large extent (in particular could be generated with the existing network sharing agreements)

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Telefonica Deutschland/E-Plus

Overview

T-Mobile (DTAG)	[20-25]%
Vodafone	[20-25]%
E-Plus	[15-20]%
O2 Deutschland	[15-20]%
Merging Parties	
Freenet	[10-15]%
Drillisch	[0-5]%
1&1	[0-5]%

Main findings

- E-Plus and O2 are close competitors with a focus on pre-paid customers
- Loss of competition between E-Plus and O2
- Both E-Plus and O2 are important competitive forces (especially E-Plus growing)
- Competitors would likely follow price increases
- Entry of MNOs post-merger depending on entry conditions
- Efficiencies not proven (e.g. in particular could be generated with network sharing agreements)

Efficiencies

- Efficiency claims
  - Demand-side (network quality improvements)
  - Supply-side (network and other cost savings)

- Key issues
  - Verifiability and quantification
  - Likelihood of pass-on to consumers
  - Merger specificity

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Remedies

Case	Remedies
T-Mobile/tele.ring (2006)	Divestiture (frequencies and network sites)
T-Mobile/Orange UK (2010)	Divestiture of spectrum; continuation/extension of netshare/roaming agreement
H3G Austria/Orange AT (2012)	Offer to sell spectrum and other assets; wholesale reference offer
H3G Ireland/O2 IRL (2014)	Offer to sell spectrum; offer to continue/extent net share agreement; capacity-based MVNO
Telefónica O2/E-Plus (2014)	Offer to sell spectrum and other assets; extension of existing wholesale access agreements; capacity-based MVNO

Remedies - Austria

- MNO remedy
  - Offer of spectrum and other assets to facilitate MNO entry
  - Additional spectrum reserved by Austrian regulator

- MVNO remedy
  - Commitment to provide wholesale access to up to 30% of merged entity's network capacity to up to 16 MVNOs (one upfront)

Remedies - Ireland

- MVNO remedy
  - Commitment to sell up to 30% of merged entity's network capacity to two MVNOs (one upfront and one as condition)
- Spectrum
  - Commitment to offer spectrum during ten years to MVNOs
- Network sharing
  - Offer Eircom to prolong network sharing agreement under certain terms

Remedies - Germany

- MNO remedy
  - Offer of spectrum and other assets to facilitate MNO entry
- MVNO remedy
  - Upfront commitment to sell up to 30% of merged entity's network capacity to up to three MVNOs
- Non-MNO remedy
  - Commitment to extend existing wholesale agreements until 2025
  - Commitment to offer access to 4G

Takeaways/Outlook

- Further increase in concentration to be closely assessed in some markets that are already closed oligopolies (e.g. mobile markets)
- Increasingly refined tools of analysis as experience with these cases increases
- Telecom industry characterized by fast paced technological and commercial evolutions: very high broadband networks, mobile internet (4G), increased data consumption, increased convergence, and new business models

Questions?