

**DISCLAIMER:**

In formulating this response, MEF has prepared a draft document and then considered all comments received from its diverse membership. MEF reflected where possible, their views in its final position outlined in this document, which we believe represents the consensus for the majority of MEF members. However, consensus does not always equate to unanimity. During the preparation of the final position Three UK advised MEF that *“This response does not reflect the views of all MEF members, and Three UK does not agree with the position presented herein.”* We have therefore agreed to publish said statement in the spirit of full transparency and correctness with our members.

**Your response**

Question	Your response
<p><b>Question 1:</b> Do you agree with our provisional conclusion regarding market definition? Please provide reasons and evidence in support of your views.</p>	<p>Not Confidential</p> <p>Yes, MEF broadly agrees with Ofcom’s provisional conclusions on market definition.</p> <p>Ofcom's focus on the wholesale market for A2P SMS termination services is correctly placed, as it acknowledges the intermediary role of Messaging Service Providers and aggregators in facilitating business-to-consumer messaging.</p> <p>There is also agreement that, in the short term, businesses have limited alternatives to SMS for bulk messaging.</p> <p>.</p> <p>However, while short-term substitutes are limited, the potential for emerging technologies like RCS and OTT messaging to provide viable alternatives in the medium to long term should not be underestimated. In following answers, we question whether the duration of the market review is long enough to allow this specific trend to manifest.</p>
<p><b>Question 2:</b> Do you agree with our provisional conclusion regarding SMP? Please provide reasons and evidence in support of your views.</p>	<p>Yes, MEF agrees with Ofcom’s provisional conclusions on SMP,</p> <p>Ofcom's conclusion that Mobile Communication Providers (MCPs) possess Significant Market Power</p>

Question	Your response
	<p>(SMP) in the A2P SMS termination market is strongly supported by the inherent monopoly each MCP holds over terminating SMS to its own network's subscribers.</p> <p>This monopoly stems from the allocation of mobile number ranges, giving MCPs exclusive control over message delivery. The regulatory framework reinforces this, preventing any competitor, including other MCPs or aggregators, from bypassing the terminating MCP's infrastructure.</p> <p>This structural feature creates a natural bottleneck and eliminates competition at the final stage of delivery, effectively granting each MCP unilateral control over pricing and terms.</p> <p>Furthermore, the absolute barrier to entry for other MCPs to compete directly in terminating A2P SMS to a specific network reinforces the argument for SMP.</p> <p>Without the consent of the number range holder, no other operator can offer termination services, insulating existing MCPs from direct competition and solidifying their market power.</p> <p>While Ofcom acknowledges the presence of alternative messaging services like RCS Business Messaging (RBM) and platforms like WhatsApp, they currently assess their competitive constraint on A2P SMS termination as limited.</p> <p>However, MEF suggests that the pace of adoption and substitutability of these alternatives might be underestimated, particularly over a longer timeframe. As these technologies evolve and user behaviour shifts, they could introduce greater competitive pressure on A2P SMS termination pricing.</p> <p>Ofcom's analysis suggests that recent significant price increases by MCPs were not justified by SMS-specific cost increases. However, MCPs might argue that these adjustments were necessitated by broader factors like network infrastructure upgrades or enhanced security measures. A more comprehensive understanding of all potential cost drivers, including cross-country comparisons with other mature Western markets which have experienced</p>

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	<p>both similar macro environment and operational A2P SMS complexities as the UK MCPs, could provide a more nuanced perspective on the rationale behind these price increases. Though it may not negate the SMP conclusion, it could offer a more complete picture.</p>
<p><b>Question 3:</b> Do you agree with our provisional conclusion regarding the three-criteria test set out in section 79(2B) of the Act? Please provide reasons and evidence in support of your views.</p>	<p>Not Confidential</p> <p><b>Points of Agreement:</b></p> <p>Yes, MEF broadly agrees with Ofcom approach.</p> <p>The presented evidence supports the presence of high barriers to entry, primarily due to the infrastructure requirements and licensing involved in operating a mobile network.</p> <p>The observed significant price increases and the limited availability of effective substitutes in the short to medium term indicate that the market structure, without intervention, does not tend towards effective competition, and competition law alone would likely be insufficient to address the identified market failures in a timely and comprehensive manner</p> <p>Establishing a mobile network infrastructure and securing the necessary licenses represent a significant financial and logistical undertaking, effectively creating a high barrier for new entities seeking to directly participate in the termination market. The existing Mobile Network Operators (MNOs) are the essential entities responsible for terminating A2P SMS messages to their respective subscribers. Messaging Service Providers (MSPs) and Aggregators, who facilitate the transmission of A2P SMS from businesses to consumers, are inherently dependent on these MCPs for the final delivery of messages.</p> <p>The complex value chain involved in A2P SMS delivery, which typically involves businesses contracting with MSPs, who then often utilize Aggregators to connect with MCPs, further reinforces the barriers to entry at the termination level.</p>

Question	Your response
	<p>A new entrant would not only need to overcome the infrastructural hurdles but also integrate into this well-established and intricate network of relationships.</p> <p>MEF also agrees with Ofcom's conclusion that the market structure does not tend towards effective competition within the life span of this market review (3 years).</p> <p>Research indicates limited demand-side substitution in the short to medium term. Business sender research highlights the unmatched reach and reliability of SMS for critical communications.</p> <p>Many organizations rely on A2P SMS due to its near-universal accessibility, ensuring messages reach a broad audience regardless of their access to other technologies like smartphones or internet connectivity.</p> <p>For certain critical functions, such as reducing "did not attend" rates in the NHS, businesses perceive SMS as pivotal, often with a direct and measurable financial benefit that outweighs the cost.</p> <p>While alternative messaging channels exist, such as WhatsApp for Business and in-app notifications, they are not currently considered effective substitutes for all use cases of A2P SMS.</p> <p>Finally, We Agree with Ofcom's view regarding the limitations of relying solely on competition law to address the identified market failures.</p> <p>The persistent barriers to entry and the inherent structural characteristics of the market suggest that anti-competitive behaviours could be difficult to address comprehensively and in a timely manner through traditional competition law enforcement.</p> <p>Competition law typically addresses specific instances of anti-competitive conduct on a case-by-case basis, which may prove too slow and resource-intensive to tackle the systemic issues present in this market.</p> <p>Ex-ante regulation, by proactively establishing rules and obligations for SMP holders, offers a more direct and potentially more effective approach to preventing potential harms arising from the exercise of market power.</p>

Question	Your response
	<p><b>Points of Disagreement or Areas for Further Consideration</b></p> <p>While there is broad agreement with Ofcom's assessment, the assertion regarding the "non-transitory" nature of barriers to entry warrants some further consideration.</p> <p>While acknowledging the current significant hurdles, it is important to consider whether technological advancements or evolving market dynamics in the longer term could potentially introduce alternative solutions or lessen the reliance on traditional SMS termination. For instance, the increasing adoption of Rich Communication Services (RCS) or the development of more appealing in-app messaging functionalities could, over a medium-long term horizon, present viable alternatives to A2P SMS for certain applications.</p> <p>The business sender research indicates that while SMS is currently the preferred channel due to its reach and reliability, businesses are also attentive to costs. Significant and sustained price increases, even within the price cap, could incentivise competitors to actively explore and invest in developing or adopting alternative messaging solutions.</p> <p>This could, in the long run, potentially reduce the popularity of traditional A2P SMS and, consequently, the non-transitory nature of the barriers to entry as new, potentially lower-barrier, alternatives gain traction.</p> <p>.</p>
<p><b>Question 4:</b> Do you agree with our provisional view that setting a price cap on A2P SMS termination rates (based on historical pricing with indexation) would be the most appropriate and proportionate response for addressing our competition concerns arising from SMP (identified in section 5)? If not, please explain why.</p>	<p>Not Confidential</p> <p>.</p> <p>The proposed price cap, based on December 2020 price benchmarking adjusted for inflation, has some drawbacks that may impact in it's the long-term market dynamics and innovation. We explain these in the following answers</p>

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<p><b>Question 5:</b> Do you agree with our provisional view that Option 2 would be effective in addressing the risk (identified in Section 5) that terminating MCPs have the ability and incentive to set and maintain prices for the termination of A2P SMS at an excessively high level, while Options 1 and 3 would not fully address that risk? If not, please explain why.</p>	<p>Not Confidential</p> <p>Option 2, which likely implements a direct price cap, is seen as the most immediate and effective tool to combat excessive pricing in the A2P SMS termination market.</p> <p>The proposal to base the cap on the average of the four largest Mobile Network Operators' (MNOs) December 2020 prices, adjusted for inflation, provides a stable and predictable reference point, predating the significant price increases seen since 2021. This historical anchoring offers a reasonable foundation for regulatory intervention, however some comments on this approach are presented in the following answer</p> <p>A2P SMS has proven to be a valuable communication channel, especially for time-sensitive information, and has demonstrated its ability to reduce "did not attend" rates within the NHS.</p> <p>However, The appropriateness of the proposed cap level, approximately 1.96 pence per message as of September 2024, needs to be thoroughly evaluated through a detailed cost analysis to ensure it accurately reflects the efficient cost of providing termination services.</p> <p>.</p> <p>. The complex structure of the A2P SMS value chain, involving MSPs and aggregators, adds complexity to the effectiveness of a wholesale price cap.</p>

**Question 6:** Do you agree with our proposal to set the price cap at a level based on an average of the four large MNOs' December 2020 prices, adjusted using CPI? If not, please explain why.

Not Confidential

MEF does not have a final view on this question. However, we believe Ofcom should consider the following aspects:

1) The period 2021-2025, heavily influenced by pandemic-driven digital service adoption, may not accurately reflect typical market conditions. This singular point in time potentially overlooks the evolving cost structures and efficiencies of Mobile Network Operators (MNOs) and Mobile Communication Providers (MCPs), making a more dynamic or averaged approach potentially more suitable.

2) the same historical period has been affected by inflation mainly driven by exogenous factors (COVID, Ukraine war). Specifically, CPI variation from 2021 to 2025 being used by Ofcom reaches c.25%. This is largely unrelated with the UK telecoms markets. Other markets have experienced similar CPI increases but A2P SMS wholesale rates have not changed in the same way as UK.

Embedding in the price cap CPI increases that are reflective of such an atypical period may be inappropriate.

3) Extending the same consideration more widely, the reliance on the Consumer Price Index (CPI) as the sole mechanism for adjusting the price cap may be inappropriate as CPI may not accurately reflect the specific cost drivers within the telecommunications sector, such as network upgrades and spectrum fees. A sector-specific inflation index or a mechanism that considers the actual costs incurred by MCPs could provide a more relevant and fair approach to price adjustments.

**Question 7:** Do you agree with our impact assessment? If not, please explain why.

Not Confidential

The A2P SMS market is substantial and growing, with Ofcom's assessment largely aligning with MEF's market data, indicating a market value of approximately £400 million annually.

	<p>Both agree on the vital role of A2P SMS for businesses and organizations, particularly its effectiveness in critical communications, such as the NHS reducing appointment no-shows. The universality and immediacy of SMS are recognized as key advantages, reinforcing its importance across various sectors.</p> <p>MEF has been actively involved in combating scams in the UK since 2018 through the launch of the Sender SMS ID registry. Ensuring that digital communications remain free from fraud risks is of paramount importance to MEF, though it is often underestimated.</p> <p>Financial fraud is on the rise, with the most vulnerable members of society increasingly targeted by advanced social engineering tactics and sophisticated scam techniques.</p> <p>MEF remains fully committed to supporting Ofcom in maximizing the impact and value of this initiative for consumers and citizens alike.</p>
<p><b>AI Question 8:</b> Do you agree with our assessment of the potential impacts <b>on specific groups of persons</b>, as set out in paragraphs 2.36-2.37? If not, please explain why.</p>	<p>Not Confidential</p> <p>MEF agrees with Ofcom on the potential positive impacts of a stable Application-to-Person (A2P) SMS market, particularly for digitally excluded groups.</p> <p>MEF agrees that individuals with limited internet access, such as those relying on basic mobile phones, depend on SMS for essential information. MEF believe it is crucial to ensuring vulnerable individuals remain connected. We therefore agree that supporting the A2P SMS market can act as a short-term strategy to maintain connectivity while long-term solutions for bridging the digital divide are developed.</p> <p>Similar considerations apply for individuals over 65 and disabled persons, which Ofcom research clearly highlights their preference for SMS compared to the general population's. A healthy A2P SMS market directly benefits these categories.</p>

	<p>MEF also agrees on the critical role that A2P SMS have in delivering healthcare communications, especially for individuals with long-term health conditions receiving messages from the NHS.</p> <p>The concept of "reliance" on A2P SMS is also questioned. Ofcom suggests certain groups rely on SMS due to limited access to online messaging. However, it's crucial to distinguish between reliance due to necessity and reliance due to preference. If reliance stems from a lack of affordable access or digital literacy, merely supporting the A2P SMS market may not address underlying digital exclusion issues. Long-term strategies should aim to empower individuals with broader digital skills and resources.</p> <p>Furthermore, Ofcom's analysis primarily focuses on age and disability, with limited discussion of other protected characteristics like race, religion, or socio-economic status. A more thorough analysis should consider how proposals might differentially affect various groups, as different characteristics intersect with technology access and communication preferences. Without a more granular analysis, there's a risk of unintended discrimination.</p> <p>Finally, the assessment lacks a forward-looking perspective on technological evolution. It should consider how advancements in mobile technology and internet access might reduce reliance on SMS in the future. A balanced approach would support existing channels while facilitating the adoption of newer, more accessible platforms. Recommendations include a more detailed impact assessment, ongoing monitoring, integration with a broader digital inclusion strategy, further stakeholder consultation, and incorporating a forward-looking perspective in future policies.</p>
<p><b>Question 9:</b> Do you agree with our proposal for a three-month implementation period following the publication of our final Statement? If not, please explain why.</p>	<p>Not Confidential</p> <p>The proposed three-month implementation period for the A2P SMS termination price cap offers the advantage of a swift market correction, addressing the significant price increases experienced since 2021.</p>

This rapid implementation could provide timely financial relief to businesses, particularly those with constrained budgets or those providing critical services like the NHS. Additionally, a defined timeframe, even if perceived as short, reduces market uncertainty compared to a prolonged delay, allowing stakeholders to plan and adapt more effectively.

However, the three-month period raises concerns about the sufficiency of time for mobile operators (MCPs) to make necessary technical and operational adjustments to their billing systems and interconnect agreements.