

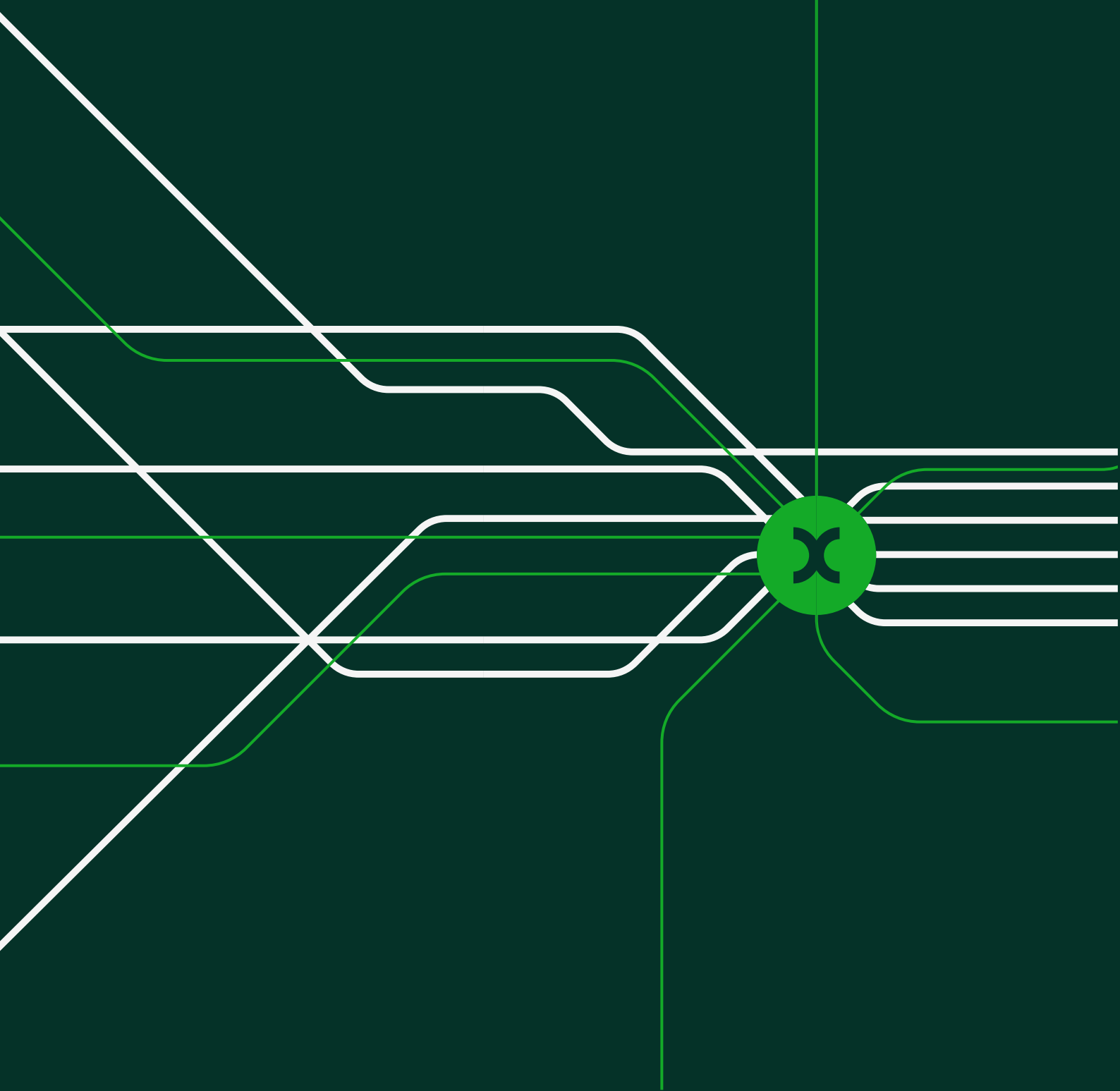
Oxera report on Ofcom's proposal to impose ex ante regulation on A2P SMS termination services

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Prepared for BT/EE, Virgin Media O2 and
Vodafone

Non-confidential version

8 April 2025



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Executive summary

In January 2025, Ofcom consulted on proposals to apply ex ante regulation to application-to-person short message service (A2P SMS) termination services in the form of a price cap on the A2P SMS termination rate charged by each of the 51 mobile communications providers (MCPs).

Ofcom's proposals are predicated on its provisional assessment that (i) there are 51 relevant markets in which each MCP holds significant market power (SMP) in the provision of A2P SMS termination services, and (ii) the three-criteria test for imposing ex ante regulation is met within these markets. A material part of this assessment relates to Ofcom's provisional view that alternative means of sending business messages to consumers (such as via WhatsApp for Business or email) do not provide sufficient current or future competitive constraints on the pricing of A2P SMS termination services.

In this report, we set out our economic assessment of Ofcom's proposals to impose ex ante regulation on A2P SMS termination services. Our findings are summarised below.

- Ofcom appears not to have properly assessed the current or future **competitive dynamics** in the A2P SMS messaging market. Our assessment of the consumer- and business-level surveys that Ofcom has relied on, alongside alternative information sources and MCP's pricing decisions, indicates that the competitive constraints imposed by alternative communications channels (today and in the future) are likely to be more significant than Ofcom's provisional findings. This has implications for Ofcom's provisional market definition, SMP proposals, whether criterion two of the three-criteria test is met and, ultimately, whether the imposition of ex ante regulation is justified.
- Ofcom appears not to have substantiated its (implied) claim that A2P SMS termination rates are excessively above the '**competitive level**' or may become so in the future—a finding that must hold for ex ante regulation in the form of a price control to be appropriate. In particular, this is due to Ofcom not accounting for the fact that a firm in a competitive market should retain a degree of pricing flexibility in how it **recovers common costs** across products which share those costs. This is particularly important in the case of mobile network operators

(MNOs) who are experiencing poor and stagnant returns on their capital employed, and potentially undermines Ofcom's provisional view that criteria two and three of the three-criteria test are met.

- Ofcom's consideration of pricing levels does not account for whether A2P SMS termination rates are **unfair**, not only with respect to costs, but also (i) in themselves or (ii) relative to comparable products. We find that A2P SMS termination rates are consistent with those we would expect under conditions of workable competition by reference to the **significant economic value** they provide and when compared against comparators, both in the UK and internationally.
- Notwithstanding the above, our view is that Ofcom has (i) **overstated the degree of harm** that business senders and message recipients may be at risk of suffering, and (ii) **understated the possible unintended consequences** of its proposals. In this context, and given our assessment elsewhere in the report that the case for ex ante regulation has not been sufficiently made, our view is that any potential benefits from Ofcom's proposals are likely to be outweighed by the likely costs.

In light of the above, our view is that Ofcom has not made the case that the economics of the UK business messaging market are such that the imposition of ex ante regulation on the providers of A2P SMS termination services is justified.

1 Introduction

In January 2025, Ofcom published the provisional conclusions from its review of the business messaging market.¹ To support their responses to Ofcom's consultation document, BT/EE, Virgin Media O2 (VMO2) and Vodafone have jointly engaged Oxera to conduct an economic assessment of Ofcom's proposals.

We have reviewed Ofcom's consultation document and the survey evidence that Ofcom commissioned as part of its review. We have also used information and data provided by BT/EE, VMO2 and Vodafone. This is primarily the same data and information provided to Ofcom. However, we have also used additional data and information where we consider this to be relevant. We have further drawn on data and information in the public domain, including from Ofcom.

The remainder of this report is structured as follows.

- In **section 2**, we provide an overview of business messaging services, and summarise the regulatory background and Ofcom's proposals.
- In **section 3**, we present our assessment of Ofcom's competitive assessment.
- In **section 4**, we present our assessment of whether there is evidence to suggest that application-to-person short message service (A2P SMS) termination prices are excessive when compared to costs.
- In **section 5**, we present our assessment of whether there is evidence to suggest that A2P SMS termination prices are unfair in themselves or by comparison to other relevant benchmarks.
- In **section 6**, we consider Ofcom's proposed intervention in the context of the possible costs and unintended consequences which might arise from it, which Ofcom would need to reflect in its impact assessment.

¹ Ofcom (2025), 'Business messaging: Review of the A2P SMS termination market: Consultation' 28 January. Hereafter referred to as 'Ofcom 2025 Business Messaging Review'.

2 Background and regulatory context

In this section we present an overview of:

- business messaging services;
- the regulatory background of SMS termination; and
- Ofcom's regulatory proposals for business messaging services.

2.1 Overview of business messaging services

Private and public organisations rely on business messaging services to communicate with their customers and citizens. For example, business messaging services enable organisations to send the following.

- Authentication and one-time passcode messages which enable individuals to log into accounts securely.
- Appointment and reservation reminders.
- Delivery reminders and notifications.
- Marketing materials.

Consistent with Ofcom, we refer to organisations that send business messages as 'business senders' and the customers and citizens that receive these messages as 'message recipients'.

2.1.1 A2P SMS termination services

The most common form of business messaging service is A2P SMS.² The A2P SMS service enables organisations to send business messages via text message to recipients that have a mobile phone. This service is equivalent to person-to-person (P2P) text messages, but in the case of A2P, the sender is a public or private organisation.

The value chain of A2P SMS is complex, has multiple layers and involves relationships between several different entities. These entities include the following.

- Mobile communications providers (MCPs), which offer a range of mobile services to subscribers including the ability to receive A2P SMS messages from business senders. Ofcom defines MCPs as comprising the four main mobile network operators (MNOs), smaller MNOs and mobile virtual network operators (MVNOs) of different sizes and business models.

² Ofcom 2025 Business Messaging Review, para. 1.1.

- Message service providers (MSPs), which provide retail business messaging services, including A2P SMS services, to business senders, and act as an intermediary between business senders and aggregators.
- Aggregators, which aggregate large volumes of A2P SMS messages from either business senders or MSPs. Aggregators act as intermediaries between business senders and MSPs and the (terminating) MCPs. Aggregators purchase A2P SMS termination services from MCPs. An aggregator is considered to also act as an MSP if it both purchases termination from MCPs and offers retail services to business senders.

In general terms, the process of sending an A2P SMS message typically involves the following steps.

- A business sender will generate the message that it wants to send via A2P SMS to the message recipient(s).
- The A2P SMS message is then sent to the aggregator (potentially via an MSP).
- The aggregator purchases A2P SMS termination from the MCP, for which the MCP terminates the A2P SMS message to the relevant subscriber(s), i.e. the message recipient(s).

In regard to the final step, the message can be terminated to the intended subscriber(s) via two separate routes.

- The aggregator can send the A2P SMS traffic directly to the message recipients' MCP, which in turn terminate the message directly to the message recipient(s) on their network. In this case, the aggregators purchase **on-net termination services**.
- The aggregator can send the A2P SMS traffic to a single MCP,³ which will terminate the message sent to message recipient(s) on their network directly (using on-net termination services). Where message recipient(s) is supplied by a different MCP, the MCP that received the message from an aggregator (the 'interconnecting MCP') will forward these on to the relevant MCPs via the interconnect route. In the latter, the aggregator purchases **off-net termination services**.

³ Here, we refer to a single MCP as a means of simplifying the explanation. In practice, the aggregator could purchase off-net termination services from multiple MCPs.

In the case of off-net termination, the interconnecting MCP will pay an 'interconnect rate' to the MCP with whom the message recipient is subscribed.

2.1.2 Other business messaging services

There are a wide range of alternatives to A2P SMS that organisations also use. These include WhatsApp for Business, emails, in-app notifications and rich communication services business messaging (RBM). While the precise features and functionality of each service differ, including in relation to how the message is delivered to the message recipient, they perform the same core function of enabling business senders to communicate with message recipients.

2.2 Regulatory background

Ofcom has historically applied ex ante regulation to wholesale mobile and fixed voice termination services, including the application of price controls on the termination rates. This ex ante regulation relates to the termination of voice calls to fixed or mobile networks and the prices charged by the terminating providers for this service. Currently, the termination rate for calls to both fixed and mobile is subject to an ex ante price cap.⁴

Ofcom could also have intervened to apply ex ante regulation to the UK SMS termination market if it had identified competition concerns and had satisfied the three-criteria test, alongside meeting its other legal conditions.⁵ However, Ofcom has never applied ex ante regulation to the SMS termination market, in respect of both A2P and P2P SMS.

Following a complaint in 2023 from a consortium of aggregators, Ofcom has been monitoring the business messaging market and, specifically, the termination rates charged by MCPs.⁶ In September 2023, Ofcom wrote to the four MNOs outlining its concerns in relation to the effect of A2P SMS termination price increases, including on innovation in the retail business messaging market.⁷ In light of recent increases in termination prices, and further evidence that was gathered, Ofcom subsequently decided to open a market review into the A2P SMS termination market. In January 2025, Ofcom published the provisional findings from its review and its proposed course of action.

⁴ Ofcom (2021), 'Wholesale Voice Markets Review 2021-26: Statement', 30 March.

⁵ Ofcom 2025 Business Messaging Review, para. 2.21.

⁶ Ofcom 2025 Business Messaging Review, para. 2.10.

⁷ Ofcom 2025 Business Messaging Review, para. 2.10.

2.3 Summary of Ofcom's proposals

Ofcom has provisionally defined a separate market for each of the 51 MCPs and subsequently identified each MCP as having significant market power (SMP) in their corresponding market.⁸ Ofcom applies the three-criteria test and concludes that imposing ex ante regulation in each relevant market is appropriate.⁹

Ofcom provisionally concludes that, in the absence of regulation, MCPs could exercise their market power by (i) setting and maintaining their prices for A2P SMS termination services at an excessively high level (i.e. above the competitive level) and/or (ii) reduce the quality of services provided to aggregators, and in turn end users, below the level that would be expected to occur in a competitive market.¹⁰

To address its competition concerns, Ofcom proposes to apply an ex ante price cap on the A2P SMS termination charges of each relevant MCP, setting the starting price cap based on December 2020 prices (adjusted for inflation). Going forwards, it proposes to update the price cap annually to account for inflation in the previous 12-months.

⁸ Ofcom 2025 Business Messaging Review, paras 4.106 and 5.51.

⁹ Ofcom 2025 Business Messaging Review, paras 5.40–5.50.

¹⁰ Ofcom 2025 Business Messaging Review, paras 5.53–5.55.

3 Ofcom's competitive assessment

3.1 Introduction

In this section, we consider Ofcom's approach to market definition and its assessment of whether any firm(s) holds significant market power (SMP), and the evidence underpinning its provisional findings. We also consider Ofcom's application of the three-criteria test to determine whether the A2P SMS termination markets that it has provisionally identified are susceptible to ex ante regulation.

Ofcom has provisionally identified 51 separate relevant markets in the UK in relation to the wholesale A2P SMS services provided by each MCP to any third party for the termination of A2P SMS.¹¹ In reaching this conclusion, Ofcom's analysis focuses primarily on whether on-net A2P SMS termination services are subject to sufficient indirect constraints arising from demand-side substitution at the retail level—namely to WhatsApp for Business, RBM, email and in-app notifications—such that a hypothetical monopolist of on-net A2P SMS termination services would be unable to profitably increase the price by 5–10%.¹² This conclusion is underpinned by the following.

- **Consumer survey research**, which, in Ofcom's view, shows that message recipients are more aware and/or more comfortable receiving A2P messages through SMS than other communication channels.
- **Business survey research**, which, in Ofcom's view, demonstrates that A2P SMS is strongly preferred by business senders, particularly due to its universal reach to consumers.
- An **informal application of the small but significant non-transitory increase in price (SSNIP) test**, which, in Ofcom's view, demonstrates that business senders would be unlikely to switch away a sufficient volume of their demand to alternative services, in response to small price increases, over the review period for these alternatives to be included in the market.

Ofcom also assessed potential demand- and supply-side substitution at the wholesale level.¹³ It provisionally concludes that the relevant market for on-net A2P SMS termination should be expanded to include off-net A2P SMS termination, based on the evidence that aggregators are

¹¹ Ofcom 2025 Business Messaging Review, para. 4.4.

¹² Ofcom 2025 Business Messaging Review, paras 4.19–4.72.

¹³ Ofcom 2025 Business Messaging Review, paras 4.73–4.88.

willing to switch to off-net A2P SMS termination, and that they are price sensitive and have in the past exploited price arbitrage opportunities between the two termination services.¹⁴

In each of the 51 relevant markets, Ofcom provisionally concludes that each MCP holds SMP, based on its view that: (i) each MCP has a high (100%) market share; (ii) there are high barriers to entry and expansion; (iii) there is insufficient countervailing buyer power; and (iv) price increases have been above cost changes and inflation, and have not led to material substitution.¹⁵

Ofcom concludes that the three-criteria test is satisfied and, therefore, that ex ante regulation is appropriate for the A2P SMS termination markets that it has provisionally identified. It concludes that criteria one and two are satisfied, based on the conclusions it makes in respect of each MCP's SMP.¹⁶ It concludes that the third criterion is satisfied, based on its view that competition law would not be sufficiently fast and effective to address the competition concerns it identifies.¹⁷

In our view, Ofcom has not properly assessed the current, and future, competitive dynamics in the A2P messaging market, which results in it underestimating the competitive constraints imposed on A2P SMS by alternative communication channels. In particular, we consider that Ofcom has not sufficiently demonstrated that:

- there are limited effective substitutes to A2P SMS for message recipients, which would act as an effective (indirect) competitive constraint;
- there are limited effective substitutes to A2P SMS for business senders, which would act as an effective (indirect) competitive constraint; and
- alternative communications channels will not deliver increased competitive pressure on A2P SMS in the future, in the absence of regulatory intervention.

Taken together, these points suggest that Ofcom has not robustly demonstrated that: (i) its concerns over the limited competitive constraints faced by A2P SMS are justified based on the current and future market dynamics, and (ii) ex ante regulation is required. This

¹⁴ Ofcom 2025 Business Messaging Review, paras 4.78–4.86.

¹⁵ Ofcom 2025 Business Messaging Review, paras 5.5–4.39.

¹⁶ Ofcom 2025 Business Messaging Review, paras 5.43–4.47.

¹⁷ Ofcom 2025 Business Messaging Review, paras 5.48–4.49.

undermines Ofcom's provisional conclusions in relation to market definition and SMP, and that the three-criteria test is satisfied.

In the remainder of this section we:

- set out our assessment of Ofcom's consumer research (section 3.2.1) and business research (section 3.2.2);
- consider further evidence on the competitive constraints imposed by alternative communications services on A2P SMS (section 3.3); and
- consider the potential competitive constraints from the pricing of related SMS products (section 3.4).

3.2 Our assessment of Ofcom's use of survey evidence

In this section, we discuss the results and robustness of the consumer and business surveys, which Ofcom has used to provide empirical support for its assessment of the competitive constraints on A2P SMS from alternative communication services.

3.2.1 Consumer survey research

One of the core concerns outlined by Ofcom is that consumers might be (i) unaware of the existence of alternative communication services, and/or (ii) unwilling to receive A2P messages through them, which means that businesses are unable to switch away from using SMS messages to communicate with these consumers. In turn, and if this impacted a sufficient number of consumers, this would indicate that A2P SMS prices are not constrained by competitive pressure from alternative communication services.

To inform its assessment, Ofcom presents results from an online quantitative survey of 2,064 adults in the UK in 2024, which included quotas set on age, gender, ethnicity and region to ensure that the sample is nationally representative of the UK.¹⁸ The survey is intended to measure consumers' awareness, usage and perceptions of A2P SMS services to other communication services such as email, in-app notifications, WhatsApp, social media messaging services and RBM.¹⁹

Ofcom's research also seeks to understand the extent to which consumers are comfortable receiving various kinds of messages through

¹⁸ Ofcom (2025), 'Application to Person (A2P) Consumer Research', p. 3.

¹⁹ Ofcom 2025 Business Messaging Review, para. 2.15; Ofcom (2025), 'Application to Person (A2P) Consumer Research'.

each messaging service, specifically messages for 'information', 'confirmation', 'promotions' and 'security/passcodes'.²⁰

Ofcom's results on awareness and receipt of A2P messages include the following.

- The majority of UK adults (at least 90%) are aware of SMS, email, WhatsApp and social media messages, with more than 70% of consumers aware of app notifications.²¹
- For consumers who are aware of the respective messaging service, 74% of consumers had received an email in the last month from a business or other organisation, while 70% had received an SMS message.²² 32% had received an app notification and less than 20% had received a message from a business or other organisation via WhatsApp, social media or Rich Communications Services (RCS).²³
- The frequency of A2P messages received via SMS was generally lower than for other business messaging services. For example, of those who had received an A2P message via each channel in the last month, 63% received a message weekly or daily via SMS, which compared to 88% for email, 81% for app notifications, 74% for social media and 64% for WhatsApp.²⁴
- Respondents who had received at least one A2P SMS message in the last month were most likely to have received messages from NHS/healthcare (65%), delivery services (49%) and/or banking/financial services (41%).²⁵
- Despite similar levels of awareness, respondents reported that it was more acceptable to receive A2P messages from private/public organisations via SMS or email than via WhatsApp, with lower acceptability for app notifications, social media messaging and RCS.²⁶
- App notifications were also considered to be an inappropriate channel for businesses to communicate with consumers for confirmation, information and promotion messages.²⁷

Ofcom also compares consumers' level of comfort when receiving specific types of messages (such as a medical appointment reminder or password reset link) across each communication channel. In Ofcom's

²⁰ Ofcom (2025), 'Application to Person (A2P) Consumer Research'.

²¹ Ofcom (2025), 'Application to Person (A2P) Consumer Research', p. 6.

²² Ofcom (2025), 'Application to Person (A2P) Consumer Research', p. 6.

²³ Ofcom (2025), 'Application to Person (A2P) Consumer Research', p. 6.

²⁴ Ofcom (2025), 'Application to Person (A2P) Consumer Research', p. 7.

²⁵ Ofcom 2025 Business Messaging Review, para. 4.27.

²⁶ Ofcom (2025), 'Application to Person (A2P) Consumer Research', p. 12.

²⁷ Ofcom (2025), 'Application to Person (A2P) Consumer Research', p. 15.

view, the results from the consumer survey indicate that the majority of recipients are comfortable receiving these messages via SMS, but fewer recipients are comfortable receiving these messages via alternative communication channels, such as WhatsApp or app notifications.

In the remainder of this section we discuss that message recipients may be more aware and/or comfortable receiving A2P messages through alternative communication channels to SMS than Ofcom concludes. In particular, our view is that (i) Ofcom may have misinterpreted the results of the consumer research, and (ii) the design of Ofcom's survey may have influenced its results.

Addressing these issues suggests that consumers are likely to be more comfortable using alternative communication channels, which indicates that these channels act as a stronger (indirect) constraint on A2P SMS prices than Ofcom provisionally concludes. Moreover, as we discuss further in section 3.2.2, while there may not be one alternative service that is an effective substitute for all types of messages/all groups of consumers, there are effective substitutes for each message type/consumer group that collectively act as a strong (indirect) constraint on A2P SMS prices.

Ofcom's interpretation of the consumer research

In Ofcom's view, consumers would need to be aware of a messaging service—and be using that service—in order for it to be considered an effective potential substitute to A2P SMS for businesses. Ofcom identifies that awareness of alternative communication channels to A2P SMS is very high—with at least 90% of consumers stating that they are aware of email, SMS, WhatsApp and social media messaging, 70% of consumers aware of app notifications, but only 23% aware of RCS. Ofcom also finds that of those consumers who were aware of each service, 74% of individuals had received an A2P message via email in the last month, with corresponding figures of 70% for SMS, 32% for app notifications, 17% for WhatsApp, 13% for social media and 3% for RCS.

However, consumers' awareness of a communication service and their ability to recall receiving an A2P message using each service within the last month may not necessarily indicate consumers' willingness to use alternative technologies. In particular, we consider that consumers may be aware of a communication channel, and potentially have received messages through it, without necessarily being aware of the underlying technology. As a result, while awareness (of the technology) across most of the communication channels is high, consumers may have

understated their awareness of, and receipt of messages from, alternative communication channels.

For example, in an international survey of 18,500 smartphone users, Analysys Mason finds that iMessage is a popular and widely used communication platform but some consumers do not realise that they use it because it is automatically built in to the Apple operating system on iPhones (iOS).²⁸ Indeed, 57% of survey respondents in the USA have an iPhone but only 32% of individuals reported having iMessage.

Ofcom's research relating to mobile messaging scams also identifies that consumers do not always accurately distinguish between SMS and other communication channels, such as iMessage and RCS. For example, MNOs receive reports of spam communications from consumers relating to voice calls, iMessage and RCS through a reporting line that is primarily intended to report SMS scam communications.²⁹

Ofcom's survey results also indicate that approximately two thirds of individuals agreed that 'SMS is a very useful way to receive A2P messages'³⁰ and consumers may prefer to receive certain kinds of A2P communications through SMS, rather than alternative services. Ofcom subsequently interprets these findings as evidence that there exists limited competitive constraints from alternative communication services on the price of A2P SMS.³¹ However, it is not clear that the high value provided by A2P SMS would necessarily imply that alternative business services do not, or within the review period will not, pose effective competitive constraints on A2P SMS.

Ofcom's interpretation of the survey results may also have underestimated consumers' dissatisfaction with SMS messages, and therefore their willingness to embrace alternative communication services. For example, Ofcom's survey results indicate that 80% of consumers are wary about SMS scams, with only 8% of consumers indicating the contrary.³² Separately, Ofcom also identified that 56% of consumers had received a suspicious text within a three month period in 2024.³³ As we discuss below, alternative communication services such

²⁸ Analysys Mason (2024), 'Communication platforms: consumer survey', October, p. 4. The research focuses on smartphone users' behaviour and preferences in Europe, North America, the Middle East, Asia and South Africa.

²⁹ Ofcom (2024), 'Reducing mobile messaging scams: Evidence and options for addressing consumer harm'.

³⁰ Ofcom (2025), 'Application to Person (A2P) Consumer Research', p. 23.

³¹ Ofcom 2025 Business Messaging Review, para. 4.29.

³² Ofcom (2025), 'Application to Person (A2P) Consumer Research', p. 23.

³³ Ofcom (2024) 'Experiences of suspicious calls, texts and app messages'.

as WhatsApp provide additional levels of functionality and security to both message recipients and business senders. Therefore, consumers may be more willing to embrace alternative communication services, particularly where they address consumers' concerns regarding security, such as the enhanced encryption provided by WhatsApp.

More broadly, Ofcom's interpretation of its research considers whether each alternative communication service provides an effective substitute to A2P SMS on an individual basis, for different kinds of messages. Therefore, Ofcom's approach is based on an assessment of whether *one* alternative communication service provides an effective substitute for *all* kinds of message types, for *every* business sender, and for *every* group of recipients. However, as we discuss in section 3.2.2, this approach will understate the overall levels of substitutability of A2P SMS with alternative communication channels, because the most appropriate substitute may vary depending on the type of message or sender.

The design of the consumer survey may have influenced Ofcom's findings

While consumer surveys provide a practical tool to gain an understanding of consumers' preferences, the way in which a survey is designed can have a significant impact on the responses of its participants. Consumers are subject to biases triggered by the framing and nature of the questions. For this reason, it is important to carefully design the questions and supporting information that is presented to respondents. This is particularly relevant in the context of A2P messaging, where, for example, some consumers may find it difficult to distinguish between different types of communication channels.

In this section, we discuss several factors relating to the design of Ofcom's consumer research, which may have influenced its findings, including overstating the extent to which consumers are unwilling to receive A2P messages through alternative communication channels to SMS.

To understand consumers' awareness of and comfort with receiving A2P messages through alternative communication channels to SMS, Ofcom has relied on a quantitative stated preference survey. As we discuss above, it is possible for consumers to be aware of—and to have received messages through—alternative communication channels, which may not be reflected in consumers' responses. Moreover, it is not clear that the stated preferences of consumers will be entirely consistent with individuals' actual behaviour.

The open-ended framing of Ofcom's questions and the presentation of information may have influenced consumers' responses, and no evidence has been provided that demonstrates consumers fully understand the questions that they are responding to. For example, individuals are presented with six options: (i) 'strongly agree'; (ii) 'agree'; (iii) 'neither agree nor disagree'; (iv) 'somewhat disagree'; (v) 'strongly disagree'; and (vi) 'don't know', which they then need to use to respond to the various statements, including the following.

- 'More likely to miss messages if sent via other communications services vs SMS'.
- 'Don't always read messages sent via other communications services'.
- 'More likely to be sent scam messages via other communications services'.
- 'Happy to receive A2P SMS but not via any other communications services'.

However, Ofcom does not define the 'alternative communications services' that consumers should consider. If consumers are not aware of what these 'alternative communications services' represent, this could influence the number of consumers that report they are not willing to consider alternative communication services based on **ambiguity aversion**.³⁴ Moreover, consumers may interpret 'other communication channels' as any possible communication service, rather than a channel that they would consider to be the closest substitute to A2P SMS.

The majority of the statements presented to consumers are framed in a way which means that if a respondent agrees with a statement, this is interpreted as evidence that A2P SMS is perceived to be a superior communication channel for consumers.³⁵ However, **acquiescence bias**—also known as **agreement bias**—means that some people are more likely to agree than disagree with a statement, regardless of what it says.³⁶ Therefore, Ofcom's survey results may reflect a bias that has been generated by the design of the survey, which leads it to erroneously

³⁴ 'The *ambiguity effect* describes how we tend to avoid options that we consider to be ambiguous or missing information. We dislike uncertainty and are therefore more inclined to select an option where the probability of achieving a favourable outcome is known' (Pilat, D. and Krastev, S., 'Why do we prefer options we know?', The Decision Lab, <https://thedecisionlab.com/biases/ambiguity-effect> (accessed 13 March 2025)).

³⁵ Ofcom (2025), 'Application to Person (A2P) Consumer Research', pp. 23–24.

³⁶ Toor, M. (2020), 'What is acquiescence bias and how can you stop it?', Qualtrics, 3 December, www.qualtrics.com/blog/avoiding-the-yes-bias (accessed 13 March 2025).

conclude that consumers are not willing to switch to alternative communication channels.

We consider that the design of Ofcom's survey is, therefore, likely to have overstated consumers' preferences for A2P messages to be communicated via SMS, and understated consumers' willingness to adopt alternative communication channels, such as WhatsApp and in-app notifications. To better understand the extent of the impact of the survey design on the respondents' decisions, it would be useful to randomise the structure and framing of the questions/statements across individuals.

Conclusion on Ofcom's use of consumer survey evidence

In this section, we have highlighted (i) the extent to which Ofcom's findings may be interpreted in a different light, and (ii) the importance of the design of a consumer survey to the results it produces.

Overall, these factors suggest that Ofcom's consumer survey evidence is insufficient to test whether consumers lack awareness or are unwilling to adopt alternative communication channels. Indeed, we consider that Ofcom's design and interpretation of the survey evidence has materially overstated the advantages of SMS relative to other communication channels and the barriers to substitution. This is especially the case once we (i) explore the specific use cases of each message type and, (ii) consider the extent to which alternative communication channels represent effective substitutes to A2P SMS on a forward-looking basis.

3.2.2 Business survey research

Summary of Ofcom's business survey research

Ofcom's qualitative business survey research reports the results from 30 businesses that were interviewed online—for one hour, respectively—regarding their (i) choice of communication services, (ii) preferences across communication services, and (iii) perceptions on the cost and substitutability of SMS with other A2P communication channels. The main results that Ofcom relies upon in its competitive assessment are set out below.

- Business senders value A2P SMS for its unparalleled reach as it can be sent to any individual with a UK mobile number.³⁷

³⁷ Ofcom 2025 Business Messaging Review, para. 4.23

- SMS is the default messaging application on all mobile devices and, unlike WhatsApp and in-app notifications, does not require users to download an app.³⁸
- Business senders value the cost-effectiveness of A2P SMS and most business senders expected that they will continue to use A2P SMS in the foreseeable future.³⁹
- Other channels act as complements, rather than substitutes to A2P SMS within a multi-channel approach.⁴⁰

Taken together, Ofcom provisionally concludes that business senders do not consider any alternative communication channels to be sufficient substitutes to A2P SMS, such that they would act as an indirect constraint on an increase in the wholesale price of A2P SMS termination by 5–10%.

In this section, we consider that Ofcom's interpretation of the business research overstates the extent to which businesses are unwilling to consider alternative communication channels.

Ofcom's business research may not be representative of the wider market

Ofcom's qualitative research seeks to understand the experiences of business senders and assess the extent to which these business senders have, or would in the future, switch from SMS to an alternative communication channel. However, throughout the analysis, Ofcom emphasises caution regarding the extent to which its findings are representative of the wider market. In particular, when assessing the extent to which organisations are using other services in addition to A2P SMS, Ofcom sets out that 'these figures describe the composition of our sample of 30 qualitative interviews – they should be treated as indicative only and should not be considered representative of the wider market'.⁴¹

Therefore, while these illustrative insights can be informative, it is not clear that the survey provides a robust basis on which to draw reliable insights on the substitutability between A2P SMS and alternative business messaging services across the business messaging market as a whole.

³⁸ Ofcom 2025 Business Messaging Review, para. 4.23.

³⁹ Ofcom 2025 Business Messaging Review, paras 4.24–4.25.

⁴⁰ Ofcom 2025 Business Messaging Review, para. 4.26.

⁴¹ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 8.

The evidence from the survey should be carefully considered against the wider evidence base, including evidence on the actual behaviour of business senders. As we discuss in more detail in section 3.3.2, there is evidence that large organisations have switched away from SMS to alternative channels, such as in-app notifications.

Consequently, while the survey does provide useful insights, a degree of caution needs to be exercised when it is used to draw conclusions on the degree of substitutability between SMS and alternative business messaging services at the market level.

Ofcom's interpretation of survey responses regarding pricing

Ofcom's research identifies that A2P SMS is highly valued by businesses for its ability to reach almost everyone, and delivers high value at a low/negligible cost. Indeed, 'for many users, there is a direct and measurable benefit to SMS messaging'⁴² and 'low cost' is a key advantage of SMS, such that businesses would be willing to pay a higher price. The survey concludes that:

[c]oncerns regarding competition and pricing within the A2P SMS market are minimal. Users across organisations are satisfied with the current options, and don't foresee any significant changes.⁴³

On this basis, Ofcom considers that there exist limited alternative substitutes to A2P SMS that act as an effective indirect competitive constraint on prices, which supports its provisional finding of SMP. While we agree that Ofcom's evidence demonstrates the high value and relatively low price of A2P SMS services compared to alternative communication methods, we do not consider that these findings necessarily indicate that alternative business services do not, or within the review period will not, pose effective competitive constraints on A2P SMS.

Ofcom's research also provides evidence that the price of WhatsApp for Business is similar to the price of A2P SMS services, but many businesses have not substituted away entirely from A2P SMS.⁴⁴ In Ofcom's view, this demonstrates that WhatsApp is not a credible substitute for A2P SMS

⁴² Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', pp. 15–16.

⁴³ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 42.

⁴⁴ Ofcom 2025 Business Messaging Review, para. 4.38.

messages for businesses and, in turn, A2P SMS prices would not be constrained by WhatsApp.

However, Ofcom's wider research also identifies that 87% of UK online adults use WhatsApp, and 14 of the 30 businesses sampled by Ofcom already use WhatsApp to reach customers. Indeed, one of the 30 businesses sampled by Ofcom has replaced its use of SMS entirely with WhatsApp. In addition, we note that in 2024 WhatsApp significantly reduced the prices of its business conversation messages, with the price of Utility messages decreasing by 44.7% and the price of Marketing conversations decreasing by 25%.⁴⁵ Service messages also became free for businesses to send from November 2024, which WhatsApp describes as intended to 'encourage businesses to be available for their customers on WhatsApp'.⁴⁶ This demonstrates that WhatsApp is actively competing in the A2P market, including with SMS services. However, it is important to recognise that the effect of these price changes could take time to play out in the market, which is important given the forward-looking nature of Ofcom's assessment.

Barriers to the adoption of alternative communication channels

Ofcom's interpretation of the business research may also overstate the barriers for business senders to adopt alternative communication services. For example, Ofcom identifies that for businesses to consider WhatsApp as an effective substitute to A2P SMS, consumers would need to download the app and enable notifications.

However, Ofcom's wider research finds that 87% of UK online adults use WhatsApp, which suggests that most consumers could be reached via this channel. Furthermore, Ofcom's research identifies that alternative communication channels, such as WhatsApp, RCS and app notifications offer superior functionality and features to A2P SMS, which are highly valued by businesses. This does not indicate that there are significant barriers to adopting alternative communication channels.

We also understand that MSPs typically offer a range of A2P services to business customers. This can enable them to 'cascade' messages, for example, by sending the same message via different channels to consumers, either depending on their preferences or their responses. This means that a business sender could use an MSP to reach the 87% of

⁴⁵ Ofcom 2025 Business Messaging Review, para. 3.37.

⁴⁶ Meta, 'Pricing updates on the WhatsApp Business Platform', <https://developers.facebook.com/docs/whatsapp/pricing/updates-to-pricing/> (accessed 11 March 2025).

customers that use WhatsApp for Business via that platform, while contacting the remaining customers via an alternative method such as A2P SMS or email.

The substitutability of alternative business messaging services for different message types of business senders

Each business messaging service has different characteristics and therefore has different (perceived) benefits and drawbacks, relative to other services, from the perspective of business senders.⁴⁷ The relative importance of each characteristic may differ depending on the type of message that a business wishes to send. For example, if a message is time-sensitive, such as an appointment reminder, it is important that the message has a high probability of being quickly read by the recipient. However, this may be less important in other scenarios, such as in the case of marketing messages.

Therefore, the relative appeal of A2P SMS and alternative business messaging services is likely to depend on the specific context. This has direct implications for the degree of substitutability between A2P SMS and alternative services, and the competitive pressure that these services exhibit on A2P SMS.

In its assessment of indirect retail constraints, Ofcom considers whether each alternative service individually provides an effective substitute to A2P SMS. Ofcom's approach, in principle, is based on an assessment of whether each alternative service provides an effective substitute for all message types, for all business senders, and for all message recipients. However, in its assessment, Ofcom then discounts each alternative service as an effective substitute, based on limitations that apply only to specific types of messages, business senders and/or message recipients. On this basis, Ofcom concludes that no individual service is sufficiently substitutable to A2P SMS to be included in the relevant market. This view influences Ofcom's SMP assessment and, therefore, its view on whether the second criterion of the three-criteria test is met.

In our view, Ofcom's assessment does not give sufficient weight to the circumstances in which specific alternative business messaging services do in fact appear to offer a credible substitute to A2P SMS. While each service may not necessarily individually offer a sufficient substitute for all circumstances, it is still important to account for the competitive

⁴⁷ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 37.

pressure that it may exert in relation to specific message types and/or business senders.

Below, we consider the substitutability of each business messaging service to A2P SMS, and present specific examples which suggest that there are credible substitutes across each type of message, each business sender and each group of message recipients. This suggests that A2P SMS is facing material competitive pressures from the range of alternative business messaging services. When considered in aggregate, this suggests that the competitive pressure faced by A2P SMS from these substitute communication services is substantively stronger than Ofcom's assessment suggests.

Ofcom considers that **WhatsApp** is not an effective competitive constraint to A2P SMS messages based on the following factors.⁴⁸

- Some businesses perceive that consumers may find WhatsApp too informal for some business/public organisations.⁴⁹
- Ofcom's consumer research identified that fewer message recipients stated that they were comfortable receiving certain types of A2P messages through WhatsApp, compared to SMS—such as GP/hospital appointment reminders.⁵⁰
- WhatsApp is only available to smartphone users who have downloaded the app.⁵¹

However, each of these limitations would restrict the appropriateness of WhatsApp only for certain types of business senders or messages, and some of these barriers to the use of WhatsApp for A2P messages may be overstated.

While it is true that WhatsApp is available only to smartphone users with the app, Ofcom finds that the large majority (87%) of consumers already have access to WhatsApp.⁵² This suggests that for the large majority of consumers, the availability of the service is not a barrier to the use of WhatsApp for A2P messages. Importantly, it is not necessary for all individuals to be able to access the service for it to represent a credible substitute, particularly for certain message types, as recipients without access can be contacted through an alternative channel.

⁴⁸ Ofcom 2025 Business Messaging Review, pp. 34–36.

⁴⁹ Ofcom 2025 Business Messaging Review, para. 4.33.

⁵⁰ Ofcom 2025 Business Messaging Review, para. 4.35.

⁵¹ Ofcom 2025 Business Messaging Review, para. 4.30.

⁵² Ofcom 2025 Business Messaging Review, para. 3.33.

While the message recipient survey does find that recipients are less comfortable receiving A2P messages through WhatsApp than SMS, this does not suggest that WhatsApp itself is not trusted for certain message types. For example, 41% and 37% of message recipients are either very or quite comfortable receiving order updates from a retailer and GP/hospital appointment reminders through WhatsApp.⁵³

Furthermore, some of the attributes that may be viewed as a drawback of the use of WhatsApp for some types of messages, such as limited auditing,⁵⁴ constitute enhanced features for other types of messages and/or business senders (such as enhanced encryption for security). Indeed, Ofcom's message recipient research identified that many consumers have concerns regarding the security of SMS messages, which suggests that on a forward-looking basis the competitive pressure from alternative communication channels for encrypted messaging that provide additional security could increase.⁵⁵

Ofcom's interpretation of the 'barriers' that limit the extent to which WhatsApp is an effective substitute for business senders is also inconsistent with its wider research. For example, Ofcom considers that the view of WhatsApp as being informal limits the extent to which it acts as an effective substitute to A2P SMS.⁵⁶ However, the summary of its findings from the field research with businesses presents WhatsApp's more informal/conversational style as being a benefit of WhatsApp for Business from the perspective of business users.⁵⁷

Ofcom's assessment also identifies a range of positive features of WhatsApp for Business, including the ability for longer messages to be sent, enabling multi-media messages to be sent, and providing users with read receipts.⁵⁸ These features could be advantageous for certain message types—for example, the ability to send multi-media messages could be valuable for marketing messages.

Taken together, we consider that WhatsApp could offer an effective substitute for many types of messages as: (i) it has a wide reach across message recipients, (ii) the drawbacks identified by Ofcom do not apply

⁵³ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 20.

⁵⁴ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 37.

⁵⁵ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 23.

⁵⁶ Ofcom 2025 Business Messaging Review, para. 4.33.

⁵⁷ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 37.

⁵⁸ Ofcom 2025 Business Messaging Review, para. 3.39.

to all A2P message types, and (iii) in some circumstances its enhanced features may be advantageous relative to SMS.

Ofcom considers 'it is unlikely that **email** is a substitute for A2P SMS for many of the types of business messages that are currently sent via A2P SMS, e.g. time-sensitive appointment reminders or passcodes' [emphasis added].⁵⁹ Ofcom's assessment is based on the following findings.

- A2P SMS messages are read sooner after receipt and have higher read rates than email.⁶⁰
- Around half of individuals in Ofcom's message recipient research stated that they agreed that they were more likely to 'miss messages via other communication services'.⁶¹

However, as we discussed in section 3.2.1, Ofcom does not define 'alternative communication services' in its survey questions to consumers, which may have influenced consumers' responses. More importantly, this question does not provide any direct insights specific to email as a communication channel as consumers' responses were focused on a comparison with 'all other communication services'.

Ofcom also discusses that consumer awareness, receipt of A2P messages and perceived acceptability of emails are very high.

- Message recipients consider email to be similar to A2P SMS in terms of acceptability as a means of receiving messages from businesses across many types of messages—including for receiving confirmation and security/passcode messages.⁶²
- Most consumers are aware of email.⁶³
- 74% of consumers who are aware of email have received an A2P message within the last month, which is higher than the equivalent figure for SMS (70%).⁶⁴

Therefore, even if A2P SMS messages are read sooner after receipt than emails, and consumers may be more likely to miss A2P messages that are sent via email than SMS, this would only restrict the substitutability of SMS with email for the specific use cases set out by Ofcom: 'time-

⁵⁹ Ofcom 2025 Business Messaging Review, para. 4.57.

⁶⁰ Ofcom 2025 Business Messaging Review, para. 4.54.

⁶¹ Ofcom 2025 Business Messaging Review, para. 4.54.

⁶² Ofcom (2025) 'Application to Person (A2P) Consumer Research', p. 12.

⁶³ Ofcom (2025) 'Application to Person (A2P) Consumer Research', p. 6.

⁶⁴ Ofcom (2025) 'Application to Person (A2P) Consumer Research', p. 6.

sensitive appointments, reminders or passcodes'. For other kinds of messages these factors are not a barrier to substitution.

Ofcom's research also suggests that consumers may not wish to receive instant communications, with only 26% of consumers stating that they disagree with the statement that they 'prefer to silence notifications'.⁶⁵ While immediate receipt may be essential for certain types of messages (such as appointment reminders), it may not be required, or even desirable, for others (such as marketing messages). Therefore, email may offer a credible substitute to A2P SMS messages for a variety of message types and businesses.

Ofcom also assesses that **in-app notifications** are not considered to be an effective substitute for A2P SMS, primarily for the following reasons.

- In-app notifications have limitations for sending bulk messages because 'each business sender would need to develop its own application and persuade its customers/users to download it on their smartphones', and that recipients would need to turn on push notifications to achieve the same visibility of SMS.⁶⁶
- While some businesses have rolled out their own apps, SMS continues to be used as a complementary channel or as a fallback mechanism, for example if the app is unavailable.⁶⁷

In relation to the first point, we note that many organisations, both large and small, have already created their own app. For example, the NHS has its own app, all of the main consumer banks have their own apps, and many retailers have their own apps. In this regard, it is important to recognise that the majority of the largest brands that use A2P SMS services also have their own app. [3<]⁶⁸ Moreover, it is not clear that individual businesses would necessarily be required to develop a bespoke app to reach their customers.⁶⁹

⁶⁵ Ofcom (2025) 'Application to Person (A2P) Consumer Research', p. 24.

⁶⁶ Ofcom 2025 Business Messaging Review, para. 4.49.

⁶⁷ Ofcom 2025 Business Messaging Review, para. 4.52.

⁶⁸ [3<]

⁶⁹ For example, TeamUp provides online booking software for firms that operate in the fitness sector, which includes an app that enables gyms to engage with their customers, manage bookings and receive payments through the app, without requiring the individual businesses to develop their own software (see further details on TeamUp's Member App webpage, <https://goteamup.com/features/member-app>, accessed 12 March 2025).

Ofcom's wider evidence, as listed below, also suggests that awareness, consumer acceptance and receipt of A2P messages through in-app notifications is generally high.

- Awareness levels for in-app communications are relatively high among A2P message recipients.⁷⁰
- Around a third of smartphone users who stated that they were aware of in-app notifications had received a message through that channel in the last month.⁷¹
- Message recipients are more likely to feel comfortable than uncomfortable receiving different types of A2P messages through in-app notifications (including GP/hospital reminders and one-time passcodes).⁷²

While some business senders may currently use their app alongside A2P SMS, this is not necessarily the case on a forward-looking basis. For example, as discussed in section 3.3, the NHS has recently moved to proactively encourage people to use its app, while Santander and First Direct are switching away from SMS towards in-app notifications for certain purposes. Ofcom notes the potential security advantages of in-app notifications relative to SMS,⁷³ meaning this channel could be increasingly attractive given consumer concerns around SMS scams. This enhanced security could also be particularly attractive for messages that relate to sensitive information, such as that from financial service providers and the NHS.

The above suggests that in-app notifications could potentially offer an effective substitute to A2P SMS for several different message types and business senders, including one-time passcode (OTP) and authentication messages, as well as time-sensitive communications such as hospital reminders. Given the high prevalence of smartphones and that most large business senders are likely to already have their own apps, in-app notifications could represent an increasingly strong constraint on A2P SMS, particularly on a forward-looking basis.

Overall, as shown above, WhatsApp for Business, email and in-app notifications are likely to offer credible substitutes to A2P SMS in a range of circumstances. While these services may not individually be sufficient to constrain A2P SMS for all message types/recipients, this demonstrates that A2P SMS is facing a range of competitive pressures

⁷⁰ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 6.

⁷¹ Ofcom (2025) 'Application to Person (A2P) Consumer Research', p. 6.

⁷² Ofcom (2025) 'Application to Person (A2P) Consumer Research', p. 21.

⁷³ Ofcom 2025 Business Messaging Review, para. 4.47.

from these alternative services. On a forward-looking basis, we expect these constraints to strengthen.

Indeed, as discussed in section 3.3, there is recent evidence showing that business senders are switching away from A2P SMS to alternative services. In this regard, it is important to recognise that the demand from business senders is generally very 'lumpy'. If a large business sender chooses to switch away from A2P SMS to an alternative service, this may not materialise as a gradual reduction in A2P SMS volumes but rather a sudden and significant shift in volume. On a forward-looking basis, this implies that the market could rapidly change if, for example, large organisations shift away from A2P SMS messages to alternative channels for entire categories of messages.

Conclusion on Ofcom's business research evidence

As we have explained above, we consider that Ofcom's interpretation of the qualitative research evidence has overstated which businesses are unwilling to substitute from SMS to alternative communication services for A2P messages. In turn, Ofcom has understated the strength of effective alternative communication channels in constraining the price of A2P SMS messages.

3.3 Further evidence of the competitive constraints imposed by alternative communication services

In section 3.2, we consider that Ofcom's survey evidence is insufficient to conclude that consumers and businesses are unwilling to substitute A2P SMS services with other communication channels. In this section, we provide further evidence from alternative sources which demonstrates that consumers are increasingly willing to engage with alternative communication channels, and many businesses use alternative services as a complement to or substitute for A2P SMS.

We consider evidence at the consumer-level and business-level in turn, to demonstrate that the competitive constraint that alternative communication channels impose on A2P SMS services is significant, and increasing over time.

3.3.1 Consumer-level

One of the main considerations regarding substitutability of A2P SMS with other communication services is whether consumers are able to easily receive, and are comfortable with receiving, messages through alternative communication channels.

In the UK, 97% of the population owns a smartphone, with the remaining 3% of individuals typically aged 65 and above.⁷⁴ Therefore, in principle, almost all consumers are able to receive real-time messages through alternative communication channels, such as email and WhatsApp.⁷⁵

Wider evidence on consumers' adoption of alternative communication channels also indicates that they are typically comfortable receiving messages in alternative formats, with 95% of consumers using at least one communication or social media app.⁷⁶

In the UK, WhatsApp was the most popular communications platform in 2024, followed by Facebook Messenger, Apple iMessage and Snapchat.⁷⁷ WhatsApp penetration also increased sharply to nearly 80% in 2024.⁷⁸ International evidence also demonstrates that the increasing penetration of Meta's apps (particularly WhatsApp) is especially strong among younger people, with year-on-year increases in uptake among 18–24 year-olds.⁷⁹ Younger people are also more comfortable being sent messages on platforms, such as WhatsApp, from businesses and the government in comparison to older people.⁸⁰

Meanwhile, (P2P) SMS volumes have been consistently falling over time as consumers increasingly depend on alternative communication methods. For example, between 2012–22, the number of text messages (SMS and MMS (multimedia messaging service)) sent per year in the UK fell from 151bn to 36bn, while the number of messages sent over the internet increased from 100bn a year to over 1.3trn.⁸¹ This trend is continuing, with a further fall in SMS and MMS volumes of 13% in 2023.⁸²

⁷⁴ Laricchia, F. (2024), 'Smartphone penetration rate in the UK 2020-2029', Statistic, 12 December, www.statista.com/statistics/553707/predicted-smartphone-user-penetration-rate-in-the-united-kingdom-uk/; Borgeaud, A. (2025), 'Share of smartphone users in the United Kingdom (UK) 2012-2024, by age', 10 March, www.statista.com/statistics/300402/smartphone-usage-in-the-uk-by-age/ (accessed 13 March 2025, respectively).

Ofcom itself found that 87% of UK online adults use WhatsApp (see: Ofcom 2025 Business Messaging Review, footnote 94).

⁷⁵ Older consumers who do not possess a smartphone may prefer to receive communications via post rather than SMS, but postal communications have not been considered within Ofcom's assessment.

⁷⁶ Analysys Mason (2024), 'Communication platforms: consumer survey', October, p. 16.

⁷⁷ Analysys Mason (2024), 'Communication platforms: consumer survey', October, pp. 12, 28.

⁷⁸ Analysys Mason (2024), 'Communication platforms: consumer survey', October, pp. 9, 28.

⁷⁹ Analysys Mason (2024), 'Communication platforms: consumer survey', October, p. 14.

⁸⁰ For example, around 15% of 18–24 year olds reported that they were not comfortable being contacted on these communication platforms, as compared with around 50% of people who were 65 or older. Source: Analysys Mason (2024), 'Communication platforms: consumer survey', October, p. 16.

⁸¹ Ofcom (2023), 'WhatsAppening in the world of online communications?', 25 October, <https://www.ofcom.org.uk/internet-based-services/technology/whatsappening-in-the-world-of-online-communications/> (accessed 1 April 2025).

⁸² Ofcom (2024), 'Communications Market Report 2024', 18 July, p. 3.

This evidence indicates that consumers are increasingly familiar with and comfortable using alternatives to SMS services. This should increase the indirect competitive constraint imposed by alternative communications channels on A2P SMS services.

3.3.2 Business-level

Ofcom considers that demand for alternative communication channels to A2P SMS is growing steadily and might be expected to grow further in the future, but 'there is not enough momentum for these channels to develop into substitutes to A2P SMS and therefore act as a competitive constraint over the three-year market review period.'⁸³

As discussed above, consumers are increasingly using, and comfortable with using, alternative communication channels. In turn, businesses are more likely to consider alternative communication channels as effective substitutes for communicating A2P messages. In this section, we provide additional evidence to show that Ofcom has underestimated the growth rate of alternative communication channels, which will strengthen the competitive constraint on A2P SMS. Indeed, many businesses have already substituted to alternative communication channels as a replacement for A2P SMS.

Ofcom's consumer research identifies that respondents who had received at least one A2P SMS message in the last month were most likely to have received messages from NHS/healthcare (65%), delivery services (49%) and/or banking/financial services (41%).⁸⁴ However, in many of these sectors, businesses and consumers have actively switched to alternative communication channels that offer superior functionality.

- NHS England is actively encouraging more people to use the NHS App, with new features added regularly. Indeed, there has been significant growth in the use of the NHS App, with 34m registered users in 2024—equivalent to around three quarters of the UK adult population in England. Moreover, consumer engagement with the NHS App is high, with monthly logins increasing by 69% between March 2023 (18.7m) and March 2024 (31.5m).⁸⁵

⁸³ Ofcom 2025 Business Messaging Review, para. 4.70.

⁸⁴ Ofcom 2025 Business Messaging Review, para. 4.70.

⁸⁵ NHS England (2024), '[NHS App messaging saved NHS more than £1 million in last year](#)', 7 May (accessed 11 March 2023). New features on the NHS App 'enable patients to view their GP health record, order repeat prescriptions, view or manage hospital appointments, nominate their preferred pharmacy, find local NHS services and get health advice via 111 online.'

- From May 2025, Santander Bank is withdrawing some of its SMS message alert services for customers, which means that Santander customers will need to use its app or online service.⁸⁶
- Similarly, First Direct removed its SMS banking service in August 2024, which means that customers will need to use its app or online service to check balances.⁸⁷ In 2023, Co-operative Bank also launched a digital identification verification service for new customers, as the bank seeks to move away from SMS due to security concerns.⁸⁸

The European Commission has announced the phase-out of SMS-based multi-factor authentication for EU Login (the European Commission's authentication service) as part of an ongoing effort to enhance digital security and protect user identities, and recommends that users switch to its app as a more secure method of communication. The Commission sets out that 'while SMS-based authentication was once a common verification method, it has become increasingly vulnerable to cyber threats such as phishing, SIM swapping, and message interception. Given the heightened risk landscape, these vulnerabilities pose significant threats to user accounts'.⁸⁹

Google has also recently announced that in order to improve security and mitigate global SMS abuse it will discontinue using SMS messages for user authentication in its email service, Gmail. Instead, users will receive a QR code, which must be scanned by the camera on a mobile phone to verify a customer's identity. However, customers that are already using a more secure method of authentication, such as Google's two-factor authentication app, will not be affected.⁹⁰

3.4 Evidence of the potential competitive constraints from MCPs' pricing decision documents

Ofcom considers that the internal documents of the four main MNOs indicate that their decisions to increase prices 'have largely been made

⁸⁶ Kirrane, H. (2025), 'Santander the latest major bank to axe its handy text message alert service', This is Money, 5 March, www.thisismoney.co.uk/money/saving/article-14464269/Santander-latest-major-bank-axe-handy-text-message-alert-service.html (accessed 11 March 2025).

⁸⁷ Dorset, H. (2024), 'First Direct axes handy text message alerts for customers', This is Money, 4 June, <https://www.thisismoney.co.uk/money/saving/article-13493385/First-Direct-axes-handy-text-message-alerts-customers.html> (accessed 11 March 2025).

⁸⁸ Kular, D. 'Co-operative Bank launches new digital ID verification', 29 March, FStech, www.fstech.co.uk/fst/Cooperative_Bank_Launches_New_Digital_ID_Verification.php (accessed 13 March 2025).

⁸⁹ European Union, 'SMS authentication phase-out in EU Login – strengthen your digital security', https://trusted-digital-identity.europa.eu/phase-out-eu-login-authentication-using-sms_en (accessed 11 March 2025).

⁹⁰ Winder, D. (2025), 'Gmail Security Alert: Google To Ditch SMS Codes For Billions Of Users', Forbes, 26 February, <https://www.forbes.com/sites/daveywinder/2025/02/26/google-confirms-gmail-to-ditch-sms-code-authentication/> (accessed 12 March 2025).

independently of considerations regarding the underlying costs or possible substitution.⁹¹

We consider that this assessment risks misrepresenting the evidence in the pricing documents (of the three MNOs that we have access to), which demonstrate that there are a wide range of factors that inform the pricing of A2P SMS services, including the competition from alternative communication channels.

[REDACTED]^{92,93,94,95,96,97}

[REDACTED]^{98,99,100,101,102,103,104,105,106,107,108}

[REDACTED]¹⁰⁹

3.5 Conclusion

In this section, we consider the extent to which Ofcom's provisional competitive assessment understates the degree to which alternative communication channels to A2P SMS provide a material competitive constraint. In doing so, we consider (i) Ofcom's use of consumer- and business-level surveys, (ii) alternative information sources, and (iii) the way in which MCPs set their prices.

Our assessment of this evidence indicates the following.

- Ofcom's provisional competitive assessment likely understates the breadth of the relevant market, by omitting relevant (direct and indirect) competitive constraints on A2P SMS services. This has implications for Ofcom's proposed SMP finding, since it is

⁹¹ Ofcom 2025 Business Messaging Review, para. 5.38.

⁹² [REDACTED]
⁹³ [REDACTED]
⁹⁴ [REDACTED]
⁹⁵ [REDACTED]
⁹⁶ [REDACTED]
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¹⁰⁵ [REDACTED]
¹⁰⁶ [REDACTED]
¹⁰⁷ [REDACTED]
¹⁰⁸ [REDACTED]
¹⁰⁹ [REDACTED]

predicated on a lack of competition to A2P SMS within the relevant market that it defines.

- Criterion two of the three-criteria test is unlikely to be met, since apparent significant competitive constraints imposed by alternative communication channels to A2P SMS indicate that the (properly defined) market structure may, in fact, tend towards effective competition.

4 Assessment of whether A2P SMS termination prices are above the competitive level: Part 1—are prices excessive relative to costs?

4.1 Introduction

Across this section and section 5, we consider Ofcom's analysis of A2P SMS termination prices and whether there is sufficient evidence to conclude that they may be set above the competitive level. The current level of A2P SMS termination prices is a critical factor in Ofcom's SMP assessment, which subsequently feeds into the second criterion of the three-criteria test. The current level of prices, and risk of future price increases, is also relevant to whether the third criterion of the test is met—i.e. whether ex ante regulation is required over and above the backstop of competition law.

Ofcom's primary competition concern, arising from the SMP that it has provisionally found each MCP to hold in their corresponding markets, relates to the level of A2P SMS termination prices.¹¹⁰ Ofcom has concerns that each MCP has the 'ability and incentive to set (and maintain) their prices for A2P SMS termination services at an excessively high level (above the competitive level)'.¹¹¹ Ofcom considers this could have future adverse consequences for business senders and message recipients.¹¹²

Ofcom also appears to imply at various points that, at least in some cases, the current prices of A2P SMS termination services are above the competitive level.¹¹³ For example, Ofcom states that 'the proposed level of the price cap reflects [its] judgment of the prices that could prevail in a competitive environment',¹¹⁴ and that 'any additional revenues MCPs might have received, in the absence of the cap, by charging termination prices from above the cap would stem from exploiting market power'.¹¹⁵ Some of the current A2P SMS termination prices lie above the proposed cap and would need to be reduced. By implication, Ofcom appears to view these prices as being above the competitive level.

¹¹⁰ Ofcom 2025 Business Messaging Review, para. 5.53.

¹¹¹ Ofcom 2025 Business Messaging Review, para. 5.53.

¹¹² Ofcom 2025 Business Messaging Review, paras 5.53–5.54.

¹¹³ For example, see Ofcom 2025 Business Messaging Review, paras 5.36–5.38, 6.59–6.61, 6.83.

¹¹⁴ Ofcom 2025 Business Messaging Review, para 6.83.

¹¹⁵ Ofcom 2025 Business Messaging Review, para 6.83.

In determining the appropriate level for the proposed price cap, Ofcom considers that the prices set by the four MNOs in December for on-net A2P SMS termination is a 'reasonable reference point of what a competitive price level could be'.¹¹⁶ It reaches this conclusion based on its view that 'on-net termination was flat between 2019 and May 2021, which is broadly what [it] would expect to see in competitive markets for services which are largely undifferentiated, and which are likely to have similar costs of provision'.¹¹⁷

Our assessment in this section and section 5 is focused on whether there is sufficient evidence to conclude that current prices might be set above the competitive level. This assessment can also be informative—though not strictly determinative—of the risks that prices may in the future be set above the competitive level. One cannot properly understand the materiality of this risk without a clear view on what the competitive level might be. Importantly, however, we consider that, on a forward-looking basis, it is unlikely that MCPs have the ability to raise and sustain A2P SMS termination prices above the competitive level. We make this evaluation due to the range of increasing constraints that they face (as described in section 3 above).

The remainder of this section is set out as follows.

- Section 4.2 presents the framework we use to assess whether A2P SMS termination prices are above the competitive level.
- Section 4.3 provides our explanation of why we consider Ofcom to have failed to assess whether prices are excessive in relation to costs.
- Section 4.4 presents an overview of our conclusions on this issue.

In section 5, we present the next stage of our assessment of A2P SMS termination prices, which considers whether prices are unfair in relation to the value the service provides, and in relation to prices of comparable services.

4.2 Our framework for assessing whether A2P SMS termination prices are above the competitive level

Ofcom's core competition concern is that A2P SMS termination prices are, or could be, at risk of being set above the competitive level such that they may be considered excessive. Ofcom appears to have reached its conclusions on current price levels based on recent price trends and

¹¹⁶ Ofcom 2025 Business Messaging Review, para. 6.59.

¹¹⁷ Ofcom 2025 Business Messaging Review, para. 6.59.

a relatively simple comparison of A2P SMS termination revenues and the (incremental) costs of supplying this service.¹¹⁸

Establishing whether an individual price is set at the 'competitive' level is an inherently complex task as the 'competitive' level of prices will be determined by a wide range of interdependent factors.

The natural starting point for such an assessment is to assess how the price compares to the costs of supply. While seemingly simple, this can quickly become a complex exercise in the case of multi-product firms which have costs that are common across their portfolio of products and services. This is because identifying and allocating these costs to specific products and services is inherently difficult. Nonetheless, it is a critically important step in the assessment, particularly if common costs are significant, as is typically the case in the supply of mobile services.

While an assessment of the costs of supply is a helpful first step in assessing what the competitive level might be, it is important to recognise that a wide range of prices for comparable products can be observed in competitive markets. That is to say, in many markets there will not be a single, uniform competitive price.¹¹⁹ In practice, prices within a market may differ and may be above the minimum level required to attract investment. Therefore, demonstrating that prices are above costs is a necessary, but not sufficient, condition for demonstrating that prices are above the 'competitive' level. One must also determine whether prices being above cost is consistent with the outcomes that would be expected in a workably competitive market.

There is an established legal and economic test for determining whether a price is unfair—the so called 'United Brands' test. While this test was developed in an excessive pricing case under competition law, as explained in Box 3.1 below, the fundamental question that the test seeks to answer is whether the observed prices are above the level that would be observed in competitive markets. The analytical framework laid out by this test is therefore directly applicable to the question Ofcom is seeking to answer here, namely, whether A2P SMS termination prices are, or may be at risk of being, set above the competitive level.

¹¹⁸ See, for example, Ofcom 2025 Business Messaging Review, paras 5.36–5.38.

¹¹⁹ In this context, it is important to distinguish between the theoretical economic construct of 'perfect' competition and conditions of normal and workable competition that one might expect to observe in many real-world markets.



Box 4.1 The *United Brands* test for excessive pricing

In competition law, the basic test for whether a dominant firm's prices are abusive is whether the price is 'unfair'. In general, a price will be unfair when the dominant firm has reaped trading benefits which it could not have obtained in conditions of normal and sufficiently effective competition, also denoted as 'workable' competition. A price that bears no reasonable relation to the economic value of the good or service is an example of an unfair price.

The established legal test applied to (alleged) excessive and unfair pricing was laid down in *United Brands Company & Anr v Commission of the European Communities (Case 27/76)* in 1978. The test asks the following questions.

- Is the difference between the costs incurred (including a reasonable rate of return) and the price charged excessive? (Limb 1)
- If so, is the price unfair in itself or when compared to competing (or comparable) products? (Limb 2)

If both limbs of the test are satisfied, the price is said to be excessive and unfair and thus constitutes an abuse of a dominant position.

Sources: *Competition and Markets Authority v Flynn Pharma Limited & Anr* [2020] EWCA Civ 339, paras 97(i)–(ii); *United Brands Company & Anr v Commission of the European Communities*, para. 250.

While the *United Brands* test is traditionally applied in an ex post competition law setting, we consider that it can provide a helpful framework for determining whether a price is above the level that would be expected under competitive conditions and is thus excessive.

In assessing whether each MCP has SMP, Ofcom considers whether current prices are above the competitive level.¹²⁰ This is a factor feeding

¹²⁰ Ofcom 2025 Business Messaging Review, paras 5.36–5.38.

into its view of whether the second criterion of the three-criteria test is satisfied.¹²¹ In addition, in reaching its view that ex ante regulation in the form of a price control is required, Ofcom considers the risk that prices are, or may be set, above the competitive level—these considerations therefore feed into the third criterion of the three-criteria test.¹²² Put differently, if A2P SMS termination prices are not above the competitive level—or at risk of being so in the future—the entire basis for regulating this market on an ex ante basis falls away.

In determining what the 'competitive' level is, it is important to take into account factors beyond the cost of supply that are relevant, including the economic value that the product or service provides. For this reason, the United Brands test offers a helpful framework for answering questions pertinent to Ofcom's assessment.

We apply this framework to assess whether there is sufficient evidence to suggest that A2P SMS termination prices may be above the competitive level. The remainder of this section considers whether there is sufficient evidence to conclude that A2P SMS termination prices are excessive in relation to costs. In section 5, we assess the evidence on economic value and other relevant factors to assess whether A2P SMS termination prices are unfair in and of themselves or relative to competitive comparators.

4.3 Ofcom has failed to robustly assess whether A2P SMS termination prices may be excessive in relation to costs

4.3.1 Introduction

As discussed above, Ofcom has concerns over the level of A2P SMS termination prices and this implies that, at least in some cases, Ofcom considers that the current price of A2P SMS termination services is above the competitive level.

However, Ofcom has failed to assess whether the current prices set by the MCPs are above the costs incurred to provide the services (including a reasonable rate of return and an allocation of common costs), and are therefore excessively high. Instead, Ofcom limits its analysis of assessing whether current price levels are cost reflective based on the following factors.

¹²¹ Ofcom 2025 Business Messaging Review, paras 5.44–5.47.

¹²² Ofcom 2025 Business Messaging Review, paras 5.48–5.49.

- Ofcom notes that recent price rises have, in some cases, been above inflation.¹²³
- Ofcom explains that the increase in A2P SMS revenues are unlikely to be explained by increases in SMS specific costs, based on an exercise focused on current (not historical) costs and which, as we understand it, uses an approximation of the incremental A2P SMS costs.¹²⁴
- Ofcom comments that recent pricing decisions having been largely made independently of underlying costs or possible substitution.¹²⁵

As we will explain in this sub-section, this approach is conceptually flawed, as it fails to take into account that (i) there are significant common costs incurred in the provision of A2P SMS termination services, (ii) a firm in a competitive market should retain a degree of pricing flexibility in how it recovers common costs from different products which share these costs, and (iii) the mobile sector is facing significant (current and future) financial challenges which increase the need for MNOs to recover common costs from different product lines.

In other words, when a firm sells multiple products that share common costs, changes in prices for one of its products will not necessarily be explained solely by changes in the incremental costs of that product. Indeed, in a workably competitive market, firms can respond to wider financial pressures by rebalancing the extent to which different products contribute to the recovery of common costs. As we explain below, Ofcom has not undertaken an analysis to establish the magnitude of common costs and the extent to which the evolution of A2P SMS termination prices can be a response to these broader financial pressures facing MNOs.

4.3.2 Common costs are significant and should be taken into account in the price-cost assessment

While Ofcom acknowledges that 'part of the costs relating to A2P SMS are shared with other services' and 'decisions around cost allocation and costing methodology would significantly influence any result', it does not attempt to incorporate common costs in its analysis.¹²⁶

¹²³ Ofcom 2025 Business Messaging Review, para. 5.36.

¹²⁴ Ofcom 2025 Business Messaging Review, para. 5.37 and footnote 156.

¹²⁵ Ofcom 2025 Business Messaging Review, para. 5.38.

¹²⁶ Ofcom 2025 Business Messaging Review, para. 6.21.

Instead, Ofcom's cost analysis is focused on incremental SMS-specific costs.¹²⁷

As explained in Box 4.2, the scale of common costs in the provision of A2P SMS termination services is likely to be significant and thus should be considered in any robust price-cost assessment of A2P SMS termination services for Ofcom to establish whether prices are 'excessive'.



Box 4.2 Assessing the scale of common costs

A multi-product firm is likely to incur both incremental costs and common costs.

Incremental costs are costs which are directly caused by a specific product or service, and could be avoided by a business if they did not provide that product or service. In contrast, **common costs** are costs which arise from the provision of a group of services but which are not incremental to the provision of any individual service, as they are not directly caused by any individual service. In other words, common costs are the costs that are shared across all products in the multi-product firm.

The level of common costs could be estimated by identifying the incremental costs of different services and then assessing the level of costs which remain unallocated after this exercise. In this case, the 'common' costs for A2P SMS termination will be those costs that remain unallocated after the incremental costs have been allocated to the different products supplied over mobile networks, namely: A2P SMS, P2P SMS, voice and data services.

There will be many costs which are incremental to the provision of each service. For example, if an MNO was to stop providing A2P SMS termination services, it may be able to save on costs related to spam filtering of SMS. Similarly, if it stopped providing voice services, the MNO may be able to make savings on voice-specific switching infrastructure and some voice billing system costs; while if it stopped providing

¹²⁷ Ofcom 2025 Business Messaging Review, footnote 156.

data services, it may potentially be able to avoid certain capacity-related costs by rationalising towers, backhaul and spectrum, as well as internet peering and transit costs.

However, a significant proportion of an MNO's costs are unlikely to be incremental to any single service and would need to be incurred regardless of the number of services that are provided. In particular, these common costs include both **network** and **non-network** costs.

- **Network common costs** would include the cost of the shared network which is necessary for the MNO to provide SMS, voice and data services. Elements of (i) the radio access network ('RAN'), (ii) the core network and (iii) the backhaul are necessary to support all the services provided by an MNO. An MNO would also incur significant energy costs to run the network, pay for spectrum licences and incur costs in relation to data centres or cloud services to be able to provide these services. In recent years, these costs would also include the cost of replacing Huawei equipment in order to comply with the Telecommunications (Security) Act 2021.
- The **non-network common costs** of MNOs would likely include significant amounts of administrative expenses that need to be incurred regardless of the number of services provided. For example, a significant proportion of the cost of overhead functions—including legal, finance, HR and brand marketing—and the cost of compliance (for example, to the Telecommunications (Security) Act 2021 and 'Network security and resilience' obligations) would typically not be incremental to any single service and would thus be considered common among different services.

Source: Oxera

4.3.3 Companies operating in competitive markets should have pricing flexibility in how they recover common costs

A firm is required to fully recover its common costs in order to be financially sustainable. However, as these costs are not specific to any single product or service, there are a number of different possible

pricing combinations across a firm's portfolio of products that would be consistent with the firm fully recovering its common costs. Thus, in competitive markets, firms should be afforded considerable pricing flexibility in how they recover these common costs across products. This will often be for efficiency reasons—i.e. where a firm sets its prices to reflect differences in the elasticity of demand. This flexibility also means that the proportion of common costs recovered from different products can change over time in response to competitive pressures and the evolution of the different markets in which the firm operates.

Indeed, the principle that a company has pricing flexibility in how it could recover common costs in a workably competitive market was accepted by the Competition Appeal Tribunal (CAT) in its recent judgment in the *Le Patourel v BT* case on alleged excessive and unfair pricing. In particular, the CAT explained that:¹²⁸

'Where common costs are shared across multiple outputs, this gives rise to an intrinsic interdependence between the profitability of those activities, and at least a degree of flexibility in the way in which those common costs might be recovered across the different products'

The CAT also noted that the degree of pricing flexibility would increase with the scale of common costs present (as is the case with A2P SMS services):¹²⁹

'The more common costs there are, the more such costs might be capable of being borne by one particular product by reason of the principle of flexibility'

In its analysis, Ofcom has failed to consider that the competitive price level should reflect the principle of pricing flexibility with respect to the recovery of common costs and thus has failed to carry out a robust price-cost assessment. Without this analysis, Ofcom cannot form a robust view on what level of prices would be consistent with workable competition, and cannot reasonably conclude that prices are above the competitive level.

4.3.4 Broader financial challenges faced by MNOs increase the need to recover common costs from different products

Another consideration that should be kept in mind in the context of common cost recovery and pricing flexibility is that the mobile sector is

¹²⁸ *Le Patourel v BT Group Plc & Anr* [2024] CAT 76, para. 112.

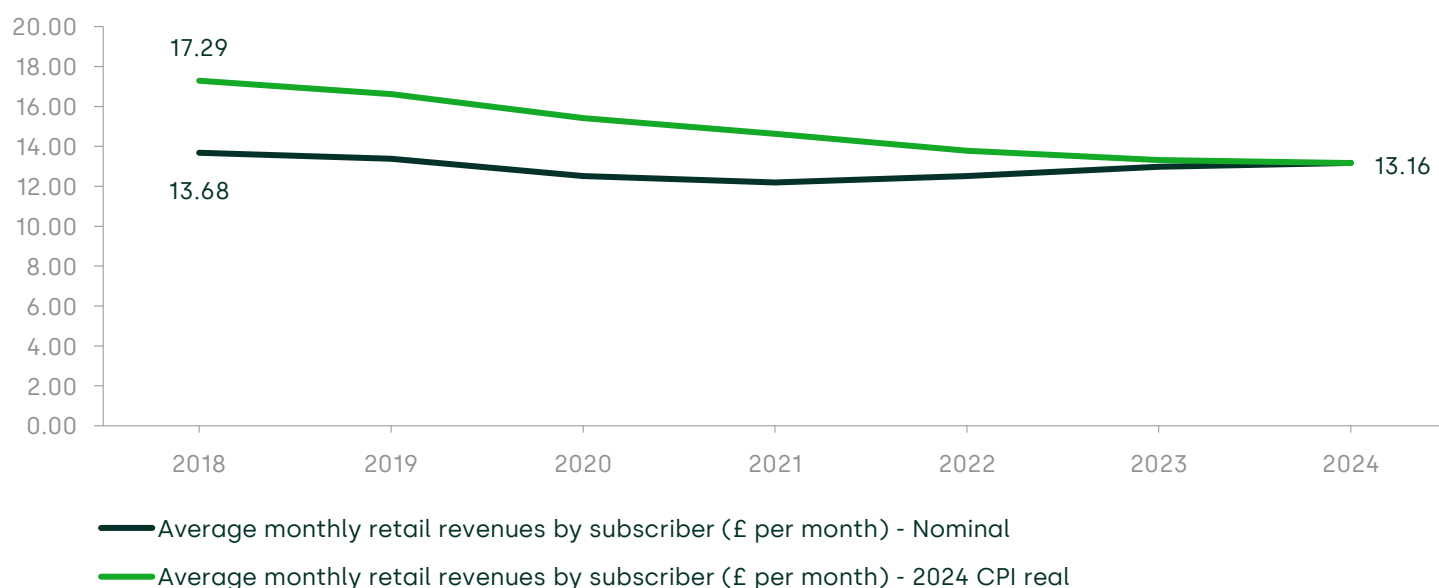
¹²⁹ *Le Patourel v BT Group Plc & Anr* [2024] CAT 76, para. 745.

facing significant financial challenges, which includes low returns on capital employed (ROCE) and declining average revenue per user (ARPU), coupled with significant forward-looking capital requirements.

Revenue pressures decrease MCPs' ability to price flexibly

MCPs are facing intense competition at the retail level, which has increased revenue pressures on the companies. As shown in Figure 4.1 below, the retail ARPUs of MCPs have historically been relatively flat in nominal terms (and decreasing in real terms).

Figure 4.1 Retail ARPUs for mobile services (2018–24)



Note: 2024 data is only available up to Q3.

Source: Oxera analysis based on: Ofcom (2025), 'Telecommunications market data update Q3 2024', 23 January, <https://www.ofcom.org.uk/phones-and-broadband/telecoms-infrastructure/telecommunications-market-data-update-q3-2024/> (accessed 19 March 2025); and Office for National Statistics (2025), 'Consumer price inflation tables', <https://www.ons.gov.uk/economy/inflationandpriceindices/datasets/consumerpriceinflation/current> (accessed 19 March 2025).

Moreover, MCPs also face a range of regulatory restrictions which limit their ability to recover common costs. For example, wholesale mobile voice call termination (MCT) rates are regulated at the pure long-run incremental cost (pure LRIC), which closes off a potential route to

common cost recovery.¹³⁰ Furthermore, as Ofcom noted, the prohibition of inflation-linked price rises, which came into operation early this year, increases financial risk to providers and reduces their pricing flexibility.¹³¹ This includes the risk that if inflationary pressures increase common costs more than expected, the additional cost would have to be borne by the MNOs.

Profitability has been stagnant

It is unlikely that the revenue pressures noted above have been a result of decreasing costs. MNOs have been investing large amounts in their networks—for example, to improve coverage, deploy 5G networks and strip out equipment procured from high-risk vendors.

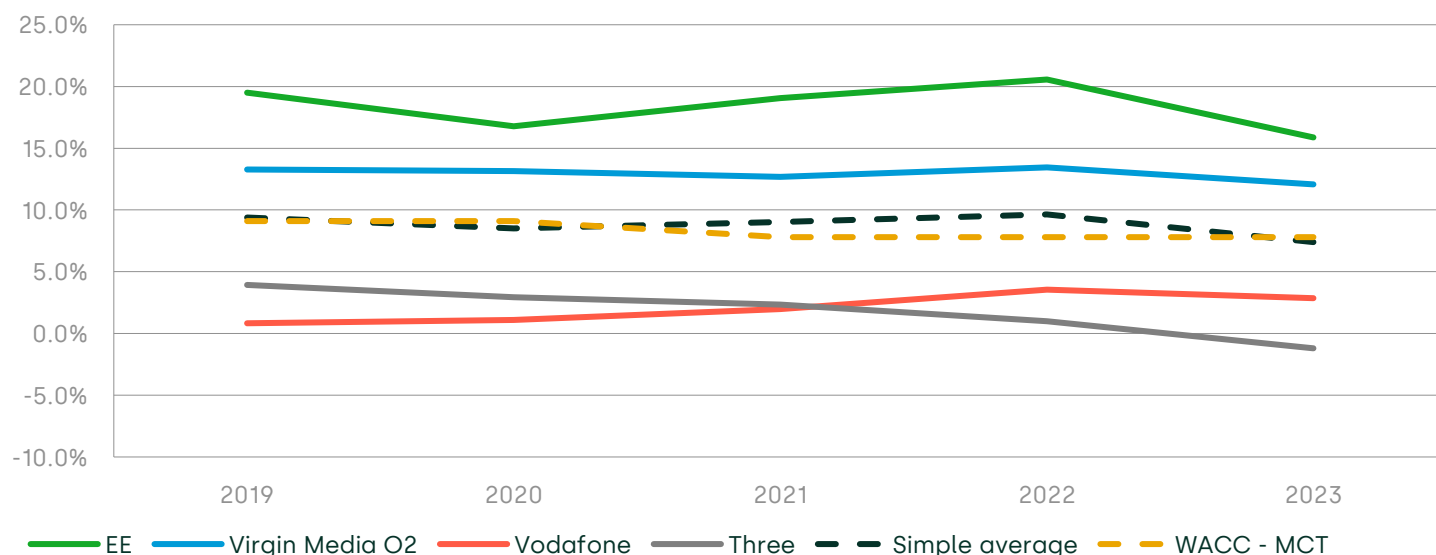
A combination of revenue and cost pressures has led to relatively stagnant profitability in the sector over the last few years. Indeed, extending the ROCE analysis carried out by Ofcom in 2022, we note that economic ROCE has not improved between 2019–23.¹³² ROCE has been generally flat for the last few years, with the industry average ROCE only marginally above (and sometimes below) the weighted average cost of capital (WACC).

¹³⁰ Ofcom (2021), 'Wholesale Voice Markets Review 2021-26'.

¹³¹ Ofcom (2024), 'Prohibiting inflation-linked price rises', 19 July, para. 3.98, <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/272754-consultation-review-of-inflation-linked-telecoms-price-rises/associated-documents/statement-prohibiting-inflation-linked-price-rises2.pdf?v=370687> (accessed 12 March 2025).

¹³² In carrying out this analysis we extended the previous analysis by Ofcom to cover the years 2022 and 2023, although we noted some potential issues in its approach. In particular, we note that Ofcom did not include current assets or current liabilities in its assessment of capital employed. Moreover, we noted that there were inconsistencies between how the capital employed base of each MNO was calculated. For example, for Vodafone and Three, trade and other receivables falling due in over one year were excluded from their respective capital employed bases. On the other hand, for EE and VMO2, trade and other receivables falling due in over one year were included in their respective capital employed bases. We understand that this was done as trade and other receivables falling due in over one year was categorised as a current account in Vodafone's and Three's financial statements, and as a non-current asset within EE's and VMO2's financial statements.

Figure 4.2 Ofcom's analysis of economic ROCE by MNO, pre-tax nominal including 5G spectrum (extended by Oxera)

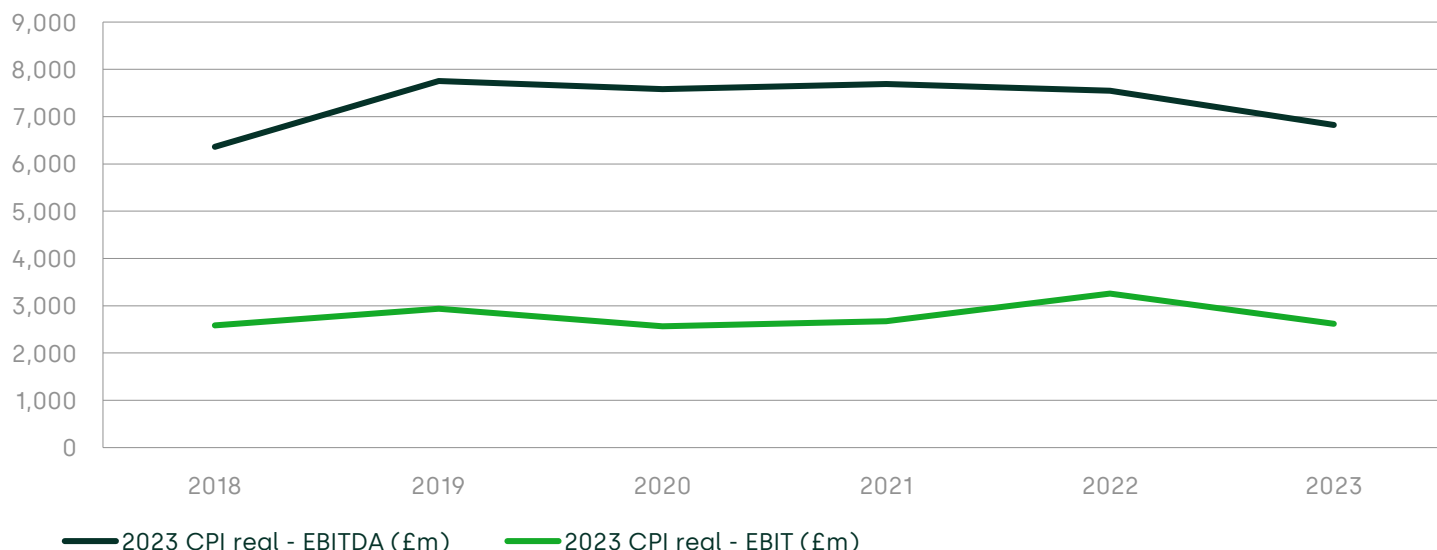


Note: We note that this figure fails to incorporate the proposed Vodafone/Three merger, which may lead to an improvement in their joint ROCE. The current value of the spectrum was estimated by inflating Ofcom's previous current value of the spectrum as at April 2022 to April 2024 based on actual consumer price index (CPI). As per Ofcom's approach, the capital employed base of each year includes the current value of the spectrum.

Sources: Oxera analysis, based on the ROCE analysis conducted in Ofcom (2022), 'Conclusions: Ofcom's future approach to mobile markets', 9 February, <https://www.ofcom.org.uk/spectrum/innovative-use-of-spectrum/ofcoms-future-approach-to-mobile-markets/> (accessed 13 March 2025); Ofcom (2024), 'Mobile and wireless broadband below 5 GHz', June, <https://www.ofcom.org.uk/siteassets/resources/documents/manage-your-licence/mobile-wireless-and-broadband/2.3-3.4-ghz/frequency-allocations-mobile-and-broadband-below-5-ghz-june-2024.pdf?v=370788> (accessed 13 March 2025); Ofcom (2024), 'Consultation: Review of annual licence fees', December, <https://www.ofcom.org.uk/spectrum/innovative-use-of-spectrum/consultation-review-of-annual-licence-fees/> (accessed 13 March 2025); and financial statements of Vodafone Limited, O2 Holdings Limited, Hutchinson 3G UK Limited and EE Limited, available on Companies House.

The decline in profitability can also be seen by looking at the total real earnings before interest and tax (EBIT) and earnings before interest, tax, depreciation and amortisation (EBITDA) across the four MNOs over time, as shown in Figure 4.3 below. Despite the fact that total real EBIT and EBITDA has been flat or has fallen in the past few years, there is still a significant need to invest in the network, as discussed below.

Figure 4.3 Total real EBIT and EBITDA across MNOs (2018–23)



Note: Values exclude exceptional items.

Source: Oxera analysis, based on the financial statements of Vodafone Limited, O2 Holdings Limited, Hutchinson 3G UK Limited and EE Limited, available on Companies House; and Office for National Statistics (2025), 'Consumer price inflation tables', <https://www.ons.gov.uk/economy/inflationandpriceindices/datasets/consumerpriceinflation/current> (accessed 31 March 2025).

The need for investment

MNOs have carried out significant investment in the last few years. Between 2017–21, Ofcom estimated that MNOs invested £2.7bn a year on average.¹³³ This trend continued between 2022–23, with capital expenditure (CAPEX) in these two years exceeding £3bn.¹³⁴

We note that there are also significant forward-looking investments expected, which includes investment into network densification with mmWave spectrum and deployment of 5G standalone networks. For example:

- VMO2 has stated that it will invest approximately £700m into its mobile network this year;¹³⁵

¹³³ Ofcom (2022), 'Ofcom's future approach to mobile markets and spectrum', para. 4.34.

¹³⁴ Based on financial statements of Vodafone Limited, O2 Holdings Limited, Hutchinson 3G UK Limited and EE Limited, available on Companies House.

¹³⁵ VMO2 (2025), 'Virgin Media O2 to supercharge network reliability with £700m Mobile Transformation Plan', <https://news.virginmediao2.co.uk/virgin-media-o2-to-supercharge-network-reliability-with-700m-mobile-transformation-plan/> (accessed 12 March 2025).

- Vodafone and Three have committed to invest £11bn in their combined network post-merger;¹³⁶
- BT/EE has committed to deliver an EE 5G solution anywhere in the UK by 2028.¹³⁷

4.4 Conclusions

Overall we consider that Ofcom has not robustly demonstrated that A2P SMS termination prices are currently set at an excessively high level when compared against the relevant costs. This is due mainly to its failure to account for (i) the likely significant scale of common costs associated with the supply of A2P SMS, and (ii) that a firm operating in a competitive market should retain a considerable degree of pricing flexibility in how it recovers common costs from the different products which share these costs.

This limitation is of critical importance as demonstrating that prices are above cost is a necessary first step in demonstrating that prices may be above the competitive level.

However, as we discuss in the next section, there are a range of other factors—notably the economic value of the service—that must be considered to determine whether prices are consistent with the competitive level.

¹³⁶ Vodafone (2025), 'CMA approves merger of Vodafone and Three in the UK', <https://www.vodafone.co.uk/newscentre/press-release/cma-approves-merger-vodafone-three-uk/> (accessed 13 March 2025).

¹³⁷ EE (2023), 'EE announces 5G expansion as part of fresh drive to improve rural connectivity', <https://newsroom.ee.co.uk/ee-announces-5g-expansion-as-part-of-fresh-drive-to-improve-rural-connectivity/> (accessed 13 March 2025).

5 Assessment of whether A2P SMS termination prices are above the competitive level: Part 2—are prices unfair in themselves or by comparison?

5.1 Introduction

Ofcom's assessment of whether A2P SMS termination prices are set above the 'competitive' level is limited to comparing the change in prices to the change in the (incremental) costs of supply.¹³⁸ Although Ofcom's analysis omits the allocation and recovery of the significant common costs present in the supply of mobile services, even if prices can be shown to be above the costs of supply, this does not automatically imply that such prices are above the competitive level.

Indeed, as explained in section 4.2, under conditions of workable competition, prices can be above the costs of supply if, for example, this is reflective of the economic value the service provides. These considerations are captured in the second limb of the United Brands test, described in section 4.2, which assesses whether the level of prices is unfair (i) in itself, or (ii) when compared against comparable products whose prices are set under conditions of workable competition.

Therefore, by comparing the evolution of prices only against the evolution of the (incremental) costs of supply, Ofcom has not conducted a comprehensive assessment of what price, or range of prices, would be expected to arise under conditions of workable competition and whether A2P SMS termination prices are above this.

In this section, we assess whether there is evidence that A2P SMS termination prices are unfair based on the following two criteria.

- *Unfair in themselves*—here, we consider the evidence on the economic value that A2P SMS termination services provide to its users, the MCPs' rationale for the price increases, and A2P SMS termination price trends (section 5.2).
- *Unfair by comparison*—here, we consider the evidence on the pricing of alternative A2P messaging services, and SMS

¹³⁸ As discussed in section 4, Ofcom's assessment is focused on the incremental costs of supply. This omits common costs which are a relevant category of costs to include in assessing A2P SMS termination prices, particularly given that they are likely to be significant in scale, as discussed in more detail above.

termination prices in unregulated EU member states (section 5.3).

5.2 Assessment of the unfairness in itself

5.2.1 Value provided by A2P SMS termination

In assessing whether a price is unfair in itself, a key consideration is whether the price charged bears a reasonable relation to the economic value of the service.¹³⁹ If the price does not bear a reasonable relation to the economic value of the service, then it can be considered unfair (provided it has *also* been shown that the price is excessive relative to costs). However, if the price is shown to bear a reasonable relation to the economic value of the service, then this would suggest it is fair and thus not abusive (*even if* it is shown to be excessive relative to costs).

The assessment of economic value is therefore critical in determining whether a price is consistent with workable competition and thus its fairness. The evidence on the value that customers place on a price also relates directly to whether there is any harm that needs addressing. Intuitively, if customers value a service and are willing to pay for it at the prevailing price, and are also able to exercise choice and to freely switch to alternatives,¹⁴⁰ then this suggests that there is no harm to be addressed, either through ex ante regulation or competition law.

Business senders can (and do) exercise choice over the business messaging services they use

Business senders that purchase A2P SMS services will often be sophisticated customers. They are private and public organisations that procure the business messaging services that best meet their needs when needing to communicate with their customers. They also have the natural incentive to limit the cost of acquiring these services, either in the interest of increasing profits or minimising costs.

Our understanding is that MSPs can provide support to less sophisticated business senders—i.e. those that are less aware of the business messaging options available to them—and enable these organisations to make informed choices over the use of different business messaging channels, taking into account the organisation's requirements and cost considerations. Therefore, even less

¹³⁹ The inclusion of the assessment of economic value under Limb 2 of the United Brands test has been endorsed from a legal perspective (see *Le Patourel v BT Group Plc & Anr* [2024] CAT 76, paras 52–53).

¹⁴⁰ This is a crucial condition to avoid the willingness to pay fallacy, as the CAT established in *Le Patourel v BT Group Plc*, at para. 960.

sophisticated business senders are able to make informed decisions over which business message channels to use, and to potentially switch channels where this is advantageous, with the support of MSPs.

As detailed in section 3, business senders have a range of alternative business messaging services to choose from and to which they can freely switch. Indeed, as discussed in section 3.3.2, there is evidence that business senders have actively chosen to switch from A2P SMS to alternative business messaging services. Consistent with this, Ofcom presents evidence that WhatsApp for Business conversation volumes are rapidly growing.¹⁴¹ This demonstrates that business senders can and do exercise choice and are able and willing to substitute to (and, in some cases, multi-homing with) alternative business messaging services.

The fact that sophisticated business senders can freely switch to alternative business messaging services, but many continue to choose to purchase A2P SMS services, demonstrates that they attach value to the A2P SMS service and are willing to pay for them at the prevailing prices.¹⁴² This notion was carefully considered and endorsed in the recent *Le Patourel v BT* judgment: 'it may be possible to infer that those who stay with the product have actively chosen to stay (since it was open to them to switch but they have not) because they subjectively attach a positive value to the product or the brand'.¹⁴³

The evidence on switching and the continued purchase of A2P SMS services can thus be probative of economic value. The evidence in section 3.3.2 is consistent with that presented below, which shows that business users do indeed place significant value on A2P SMS services.

Economic value provided by the features of A2P SMS services

A2P SMS termination is an essential input in the supply of A2P SMS services as the MCP must terminate the SMS message on its network for the recipient to receive the message. It is the MCPs' investment in their mobile networks (or their wholesale access to a network, in the case of MVNOs) that enables SMS messages to be delivered to recipients. Therefore, A2P SMS termination underpins the A2P SMS value chain. To

¹⁴¹ Ofcom 2025 Business Messaging Review, Figure 3.5.

¹⁴² Crucially, the ability to exercise choice and switch services means that the 'willingness to pay' fallacy does not apply in this case. This occurs where a customer's apparent 'willingness to pay' the price for a product is misleading because in practice they must pay the price to obtain the service as no credible substitutes exist. As discussed in more detail in section 3, we consider that a wide range of alternative services which offer meaningful substitutes do exist and, therefore, evidence of customers' willingness to pay is meaningful.

¹⁴³ *Le Patourel v BT Group Plc & Anr* [2024] CAT 76, para. 961. See also paras 957–962.

assess whether the price of A2P SMS termination is at risk of being above the competitive level, it is important to assess the value the service provides to end users (i.e. business senders) by enabling them to send A2P SMS messages to their customers and citizens.

The value that A2P SMS services provide to business senders will depend on its service quality and features, and the benefits that these generate for business senders. From an analytical perspective, the assessment of the value that the service provides is a distinct exercise from analysing the costs incurred in its provision (as we discuss in section 4). In this regard, it is important to recognise that the value provided to business senders—which reflects their willingness to pay for the service—can exceed the costs that the MCPs incur in delivering the service, which are captured under Limb 1, and indeed the prevailing price levels.

As discussed in more detail below, the evidence from Ofcom's business survey demonstrates that A2P SMS services provide significant value to business senders. While this survey is not necessarily representative of the wider market, it consistently suggests that public and private organisations of different sizes, across a range of sectors, place significant value on the service. Specifically, the evidence demonstrates the following.

- Business senders value the features and quality of A2P SMS.
- A2P SMS provides direct economic benefits to business senders.
- A2P SMS is viewed as representing good value for money.
- MCPs have sought to improve the integrity of the channel through tackling scams and fraudulent messages, which increases the value of the service to business senders.

As Ofcom recognises, business senders value A2P SMS for a range of reasons, including:

- it has unparalleled reach among intended message recipients;
- it is the default messaging service on mobile phones; and
- it is a familiar, reliable and well-established service.¹⁴⁴

These features provide public and private organisations with a simple, effective and efficient channel of communication with their customers and citizens.

¹⁴⁴ Ofcom 2025 Business Messaging Review, paras 4.22–4.24.

A2P SMS can provide direct economic benefits to business senders. For example, due to the ubiquity of mobile devices among message recipients and the high probability of messages being read,¹⁴⁵ A2P SMS messages help reduce the rate of missed appointments. This provides a direct economic benefit to business senders, who are able to avoid costs that they would otherwise incur, benefitting both public and private organisations. Indeed, Ofcom's own research finds the following.

- A restaurant operations manager said that the cost of A2P SMS was not a concern as 'it is worth it to reduce **no-shows**, which will typically cost us **£60 for a table for two**' [emphasis added].¹⁴⁶
- The head of operations of the NHS said that 'Bulk SMS messaging is still pretty pivotal to **reducing our [do not attend] rate**. If somebody does not attend, that's a wasted appointment. That means that we could have seen either another patient or **we end up losing funding for that appointment** slot. So it's got a **real financial impact to the organisation**' [emphasis added].¹⁴⁷
- A real estate agency business owner said that the service helps 'to **not waste my staffs time by turning up to appointments with no shows** then obviously that in the long run is definitely worth it and worth that little bit of extra cost' [emphasis added].¹⁴⁸

These case studies demonstrate the mechanism through which the service offers real direct economic benefits to business senders by enabling them to avoid costs that would otherwise be incurred. While it would be challenging to assess the potential value of A2P SMS services to private and public organisations across the wider economy, if the survey results were broadly representative of the wider market, the economic impact is likely to be significant.

There is evidence to suggest that the cost of A2P services for business users relative to the economic value they provide is small. For example, Ofcom's research finds that '[t]he low cost of individual messages mean that, regardless of company size, in the grand scheme of overall expenditure A2P SMS is typically perceived to be a negligible outgoing'.¹⁴⁹ In light of this and the significant benefits that the service provides, business users of A2P SMS services view them as providing

¹⁴⁵ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', pp. 15–16.

¹⁴⁶ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 16.

¹⁴⁷ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 18.

¹⁴⁸ Ofcom (2024), 'Market Study into A2P SMS Competition—Business Research', p. 17.

¹⁴⁹ Ofcom Business Sender Research, p. 20.

good value for money. Ofcom's research finds that A2P SMS is viewed as a good investment,¹⁵⁰ and that it 'has direct financial benefit that far surpasses the cost of the messages'.¹⁵¹ Ofcom's survey finds that there are only a minority of cases where cost is a substantial concern and key consideration.¹⁵²

MCPs' investment in improving the quality of A2P SMS services

MCPs have sought to improve the quality of their A2P SMS services, primarily through investing in measures to combat scam and spam messages. This helps to improve the integrity of A2P SMS as a channel for organisations to communicate with their customers and citizens, thereby increasing the value provided to business senders.

[REDACTED]^{153,154,155}

[REDACTED]^{156,157,158,159}

[REDACTED]¹⁶⁰

Ensuring that the A2P SMS channel has integrity is particularly important given consumer concerns around scams and fraudulent activity. Indeed, Ofcom's research found that 80% of those with access to a smartphone strongly (44%) or somewhat (36%) agree that they are wary about scams.¹⁶¹ Separate research from Ofcom conducted in relation to mobile messaging scams found that 'at least around a quarter of reported scam messages are coming from A2P providers'.¹⁶² Ofcom notes the role that traffic monitoring tools, such as those that MCPs are investing in, can play in identifying and blocking suspicious traffic.¹⁶³

The value of A2P SMS services to business senders is inherently contingent on its efficacy in communicating the intended message to

¹⁵⁰ Ofcom Business Sender Research, p. 20.

¹⁵¹ Ofcom Business Sender Research, p. 16.

¹⁵² Ofcom Business Sender Research, p. 21.

¹⁵³ [REDACTED]

¹⁵⁴ [REDACTED]

¹⁵⁵ [REDACTED]

¹⁵⁶ [REDACTED]

¹⁵⁷ [REDACTED]

¹⁵⁸ [REDACTED]

¹⁵⁹ [REDACTED]

¹⁶⁰ [REDACTED]

¹⁶¹ Ofcom Message Recipient Research, p. 25.

¹⁶² Ofcom (2024), 'Reducing mobile messaging scams: Evidence and options for addressing consumer harm: Call for Input', 7 October, para. 4.11.

¹⁶³ Ofcom (2024), 'Reducing mobile messaging scams: Evidence and options for addressing consumer harm: Call for Input', 7 October, paras 5.41–5.45.

the recipient. If the number of scam and spam messages are reduced, then message recipients are likely to have confidence that A2P SMS messages are legitimate and may therefore be more likely to be read and acted upon. Therefore, measures which protect the integrity of the channel are likely to provide real value to business senders.

Conclusion on the value provided by A2P SMS termination services

The evidence suggests that A2P SMS services provide significant value, including economic benefits, to business senders. As described above, sophisticated business senders can freely switch to alternative business messaging services but continue to choose to purchase A2P SMS services—this is consistent with the services providing significant economic value, and demonstrates that business senders attach value to A2P SMS services and are willing to pay for them at the prevailing prices.

Overall, the evidence suggests that the prices charged for A2P SMS termination services bear a reasonable relation to the economic value they provide and are viewed to deliver good value for money. This suggests that A2P SMS termination prices are fair and consistent with the prices that could be expected to arise in workable competition.

5.2.2 MCPs' rationale for A2P SMS termination price increases

Ofcom considers that the internal documents of the four main MNOs indicate that decisions to increase prices were made largely independently of considerations regarding the underlying costs of substitution to alternative communications methods.¹⁶⁴

As we discussed in more detail in section 3.4, there is evidence to suggest that MCPs accounted for a wide range of factors when making pricing decisions.

- [REDACTED]¹⁶⁵
- [REDACTED]¹⁶⁶
- [REDACTED]¹⁶⁷

This evidence suggests that MCPs' pricing decisions were based on a wide range of factors. The documents do not suggest that MCPs viewed themselves as having an unbounded ability to increase prices without

¹⁶⁴ Ofcom 2025 Business Messaging Review, para. 5.38.

¹⁶⁵ [REDACTED]

¹⁶⁶ [REDACTED]

¹⁶⁷ [REDACTED]

due regard to the constraints they may face, nor that in making their pricing decisions they sought to unfairly exploit business senders.

5.2.3 Long-term trend of A2P SMS termination prices

Ofcom's assessment of A2P SMS termination prices focuses on the period 2019 Q2 to 2024 Q2,¹⁶⁸ while its concerns over recent increases in prices relate to those that have occurred since around 2021.¹⁶⁹ Ofcom finds that A2P SMS on-net termination rates for the four MNOs increased by around 15–75% (in nominal terms) within three years,¹⁷⁰ and that there is a similar pattern of price increases for interconnect rates.¹⁷¹

In the UK, the SMS termination market has not to date been regulated in relation to either A2P or P2P SMS termination. When viewed over a longer time horizon, there is evidence that current prices are at a similar, if not lower, level than they have been historically in nominal terms (and are below historic price levels when considered in real terms). For example:

- [REDACTED]^{172,173}
- [REDACTED]¹⁷⁴

Given the absence of any regulatory intervention, we understand Ofcom not to have had concerns with the historic price levels of A2P SMS termination. It is unclear why the current level of A2P SMS pricing, which is broadly comparable to, and in some cases below, historic price levels, is now viewed by Ofcom as being of a sufficiently strong source of concern to justify imposing an ex ante price cap.

Moreover, for the three MNOs that we have data for, the recent price increases are less pronounced than Ofcom suggests when prices are assessed to account for inflation. Inflationary pressures are a relevant, and important, consideration as they will affect the input cost base of MCPs through a range of cost items, such as labour costs, energy costs and the costs of network components. Many of these costs are likely to be relevant to the common cost base of MCPs, which as discussed in section 4.3, are likely to be significant in scale.

¹⁶⁸ Ofcom 2025 Business Messaging Review, Figures 3.6 and 3.7.

¹⁶⁹ Ofcom 2025 Business Messaging Review, paras 3.59 and 3.60.

¹⁷⁰ Ofcom 2025 Business Messaging Review, para. 3.59.

¹⁷¹ Ofcom 2025 Business Messaging Review, para. 3.60.

¹⁷² [REDACTED]

¹⁷³ [REDACTED]

¹⁷⁴ [REDACTED]

Below we present this analysis across the three MNOs that we have data for. We focus on the on-net price as we understand that the majority of A2P SMS volumes are sent via the on-net channel.¹⁷⁵

[REDACTED]¹⁷⁶

[REDACTED]¹⁷⁷

[REDACTED]^{178,179}

Overall, this evidence indicates that the price rises across the three operators for which we have data are less significantly pronounced than Ofcom's analysis of the nominal price trends for the least and most expensive prices suggests.¹⁸⁰

Importantly, the scale of these price changes need to be considered in the context of (i) the significant value A2P SMS services provide to business senders and (ii) the likely significant scale of common costs associated with A2P SMS, which, MCPs should have the flexibility to determine how to recover across the range of services that share these common costs. Viewed in this context, the scale of real-terms price rises does not appear to be out of line with what might be expected under conditions of workable competition. Moreover, absolute prices (even in nominal terms) are below historic levels when considered over a longer time horizon than Ofcom uses.

5.3 Assessment of unfairness by comparison

5.3.1 Pricing of alternative A2P messaging services

In assessing whether the prices of A2P SMS services are unfair, it can also be instructive to consider how these relate to comparable products for which the price is set under conditions of workable competition. If the prices of A2P SMS services are in line with the prices of a comparable service that operates under workable competition, this suggests that the price of A2P SMS services themselves are likely to be

¹⁷⁵ This would be expected given that, as Ofcom recognises, the on-net price is typically set below the off-net price and that aggregators are very sensitive to the price differential between on-net and off-net prices (Ofcom 2025 Business Messaging Review, paras 4.77–4.86).

¹⁷⁶ [REDACTED]

¹⁷⁷ [REDACTED]

¹⁷⁸ [REDACTED]

¹⁷⁹ [REDACTED]

¹⁸⁰ Ofcom 2025 Business Messaging Review, Figure 3.6. Consistent with this, our own calculations suggest that the real-terms price increases are significantly lower than the corresponding nominal-terms price increases.

consistent with the outcome that would be expected under workable competition.

WhatsApp for Business represents a suitable comparator

We consider that WhatsApp for Business represents a suitable comparator, as it is an alternative service supplying business messaging services and it sets prices under conditions of workable competition.

WhatsApp for Business provides comparable services to A2P SMS services. Namely it provides organisations with the ability to send messages to consumers and citizens.

As we discussed in section 3, the evidence indicates that WhatsApp for Business provides a significant competitive constraint on A2P SMS termination, which is likely to increase in the future. This may mean that, on a forward-looking basis, the two services belong in the same relevant market in which there is effective competition. If, instead, WhatsApp for Business was found to be in a separate relevant market to A2P SMS termination (as Ofcom proposes), we consider it would likely be subject to competitive constraints from alternative business messaging services, such as in-app notification, emails and RBM. In addition, WhatsApp for Business' prices may be constrained by the price for A2P SMS termination—i.e. there may be an asymmetric competitive constraint from A2P SMS services.

As we discussed in section 3.2.2, and as recognised by Ofcom, WhatsApp for Business has recently made significant price reductions—a 25% price reduction for 'marketing' conversations and a 44% price reduction for 'utility' conversations.¹⁸¹ This indicates that WhatsApp for Business is facing and responding to competitive constraints on its pricing.

Our assessment that WhatsApp for Business operates under workable competition is supported by our understanding that Ofcom appears not to have concerns that (i) WhatsApp for Business holds a position of SMP in relation to business messages sent on its platform, or (ii) it views its prices as being set above its view of the competitive level.

Price comparison between A2P SMS and WhatsApp for Business

¹⁸¹ Ofcom 2025 Business Messaging Review, para. 3.37.

WhatsApp for Business' pricing model differs from that of A2P SMS. We understand that messaging services provided over the WhatsApp for Business App are, for some users, provided free of charge.¹⁸² However, as Ofcom explains, this service is 'meant to handle only a small number of conversations'.¹⁸³ The WhatsApp for Business Platform, is designed for larger businesses and is a paid for service.¹⁸⁴ We do not consider that the availability of a free of charge service, which is available only in certain circumstances, undermines the relevance of the paid-for service for the purpose of this comparison.

For the paid-for services, WhatsApp for Business currently sets prices on a 'per conversation' basis, setting different prices depending on the type of conversation.¹⁸⁵ A 'conversation' is defined as a 24-hour period in which the business sender and message recipient can communicate. In contrast, A2P SMS termination prices are set on a 'per message' basis and do not vary depending on the message type. This means that direct comparisons between the two services is not on a strict like-for-like basis (based on the current pricing model). However, we consider that it still offers a meaningful and informative comparison for these purposes.

The evidence based on WhatsApp for Business' current pricing suggests that it is broadly aligned with A2P SMS prices charged by aggregators. Ofcom itself finds that WhatsApp for Business' price per conversation (ranging from 1.59–3.82p) sits within the range of standard A2P SMS retail prices charged by aggregators (2.1–5.7p in 2024 Q2).¹⁸⁶

In Table 5.1 below, we compare the standard on-net and off-net A2P SMS termination prices charged by BT/EE, VMO2 and Vodafone against the prices currently charged by WhatsApp for Business.^{187, 188}

¹⁸² Ofcom 2025 Business Messaging Review, para. 3.35.

¹⁸³ Ofcom 2025 Business Messaging Review, para. 3.35.

¹⁸⁴ Ofcom 2025 Business Messaging Review, para. 3.35.

¹⁸⁵ Ofcom 2025 Business Messaging Review, para. 3.36.

¹⁸⁶ Ofcom 2025 Business Messaging Review, para. 4.38.

¹⁸⁷ In this comparison, we exclude the 'service' conversations on WhatsApp for Business, which are provided free of charge. This conversation type is initiated by users and typically relate to resolving customer enquiries. This is not a suitable comparator for A2P SMS messages since, as noted by Ofcom, '[m]ost A2P messages are "one-way" communications, in the sense that they provide information to the recipient but do not involve or anticipate a response from the consumer/citizen to the business/public organisation sender' (Ofcom 2025 Business Messaging Review, para. 2.4).

¹⁸⁸ This comparison assumes that one message is sent per conversation on WhatsApp for Business. While this assumption is not applicable to all cases, it is reasonable for some messages. For example: a single business user is unlikely to send multiple marketing messages or reminders for an appointment/reservation to the same recipient within a 24-hour period; similarly, in many cases, only one authentication message will be required within a 24-hour period. While this assumption may overstate the cost of a message sent via WhatsApp on average, it still provides a meaningful comparison for many types of business messages sent using A2P SMS.

This comparison shows that A2P SMS termination prices are broadly aligned with the WhatsApp for Business prices, and are certainly not significantly above the prices of WhatsApp for Business. The comparison shows that there are a range of prices depending on the channel used, message type and volume of messages sent. This pattern of pricing is consistent with workable competition, in which considerable price dispersion may be present.

Table 5.1 WhatsApp for Business prices vs A2P SMS termination prices

Provider	On-net price	Off-net price
WhatsApp for Business ¹	'Utility' conversation: 1.59p 'Authentication' conversation: 2.59p 'Marketing' conversation: 3.82p	N/A
BT/EE ²	[X]p	[X]p
VMO2 ³	[X]p	[X]p
Vodafone ⁴	[X]p	[X]p

Note: We use the latest standard A2P SMS termination prices provided to Ofcom. ¹ Price per conversation (assuming one message per conversation), dependent on conversation type (excluding 'service' conversations). ² [X]; ³ [X]; ⁴ [X].

Source: Oxera analysis based on: Ofcom 2025 Business Messaging Review, Table 3.1; [X]; [X]; [X].

From July 2025, WhatsApp for Business will move towards a price per message charging model,¹⁸⁹ rather than per conversation. Meta (which owns WhatsApp for Business) has indicated that it will charge the same prices presented in Table 5.1 above once it moves to the per-message charging model.¹⁹⁰ If it is the case that the WhatsApp for Business prices presented in Table 5.1 will be charged on a per-message basis, then they are directly comparable to the A2P SMS termination prices—i.e. no assumption needs to be made about the number of messages per conversation. In this case, the A2P SMS termination prices would be

¹⁸⁹ In the case of utility messages, the price per message applies if the message is delivered outside of the customer service window (i.e. 24-hours from a user sending an initial message to the business). See: Meta (2024), 'Pricing updates on the WhatsApp Business Platform', <https://developers.facebook.com/docs/whatsapp/pricing/updates-to-pricing/> (accessed 14. March 2025).

¹⁹⁰ In its pricing update, Meta states that its published rate card represents 'what we will charge when we launch per-message pricing globally on July 1, 2025'. The published rate card it refers to contains the same prices presented in Table 5.1. See: Meta (2024), 'Pricing updates on the WhatsApp Business Platform', <https://developers.facebook.com/docs/whatsapp/pricing/updates-to-pricing/> (accessed 14. March 2025).

towards the lower-to-middle end of the range of prices charged by WhatsApp for Business (for comparable message types).

Conclusions on the comparison against WhatsApp for Business prices

On this comparison, the evidence suggests that A2P SMS termination prices are broadly comparable with the prices set by WhatsApp for Business, and are likely to be more so following the changes to WhatsApp for Business' pricing structure to a price per message model. Given that we have no reason to doubt that WhatsApp for Business' prices are set in conditions of workable competition, this is a strong indication that that A2P SMS prices are not unfair when compared against competitive benchmarks and are thus consistent with the level of prices that would be observed under workable competition.

5.3.2 International SMS termination price benchmarks

International price benchmarks can be informative when seeking to assess whether prices are relatively high or low in a specific country. Indeed, international benchmarking is often used to indicate how well a market is delivering for consumers, and in turn can be used to inform regulation and policy.¹⁹¹ Ofcom itself includes international benchmarks in its periodic research on pricing trends in the UK.¹⁹²

When making simple price comparisons between countries, one needs to adopt a degree of caution as there can be differences between the countries that drive differences in prices that need to be controlled for. This issue can be mitigated in part by selecting broadly similar countries for the exercise. Below, we compare termination prices in the UK against those in broadly comparable EU member states. While recognising that there are limitations to such a benchmarking exercise, we consider it can still be an informative and useful source of evidence as one element of a broader comparative assessment.

For our purposes, the price of SMS termination in other countries can potentially be informative of whether the prices set in the UK may be unfair where these prices have been set under conditions of workable competition.

¹⁹¹ For example, the European Commission and International Telecommunication Union have produced studies that benchmark prices for telecoms services across countries (European Commission (2024), 'Mobile and Fixed Broadband Prices in Europe 2022', 22 April; International Telecommunication Union (2024), 'Policy Brief: The affordability of ICT services 2023', March)

¹⁹² See, for example, Ofcom (2024), 'Pricing trends for communications services in the UK', 12 December, pp. 49–51.

International benchmarks for A2P SMS termination prices

SMS termination has never been listed in the European Commission's Recommendation on Relevant Markets as a market susceptible to ex ante regulation. The Recommendation identifies the markets that the European Commission considers to be particularly prone to requiring ex ante regulation and allows national regulatory authorities (NRAs) to 'focus their efforts on markets where competition appears to be not yet effective at Union level and provides regulatory predictability and legal certainty to market players, thus allowing stable business planning'.¹⁹³ NRAs must pay the utmost regard to the Recommendation, but can review markets not included on the list, where there are sufficient grounds to demonstrate the three-criteria test is satisfied.

In most EU member states, the SMS termination market has never been subject to ex ante regulation.¹⁹⁴ In others, NRAs have imposed and subsequently withdrawn regulation on SMS termination services, for example in Denmark and France.¹⁹⁵

In Denmark, the Danish Business Authority (DBA) concluded that the second criterion of the three-criteria test was not met as alternative messaging services exerted sufficient competitive pressure on SMS services in the retail market to prevent mobile operators from being able to set SMS termination rates independently of their customers and competitors.¹⁹⁶ The DBA also concluded that the third criterion was not met, as competition law was sufficient to deal with abuse of a dominant position, should such concerns arise.¹⁹⁷ The DBA subsequently allowed the ex ante regulation imposed on SMS termination rates to lapse.¹⁹⁸

In France, the regulatory authority ARCEP withdrew regulation from the SMS termination market in 2015.¹⁹⁹ This decision followed the European

¹⁹³ European Commission (2020), 'Commission staff working document: Explanatory note: Accompanying the document Commission Recommendation on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code', 18 December, p. 5.

¹⁹⁴ The Body of European Regulators for Electronic Communications (BEREC) (2021), 'Termination rates at a European level', 30 June, p. 25.

¹⁹⁵ In both cases, we note that the market review concerned SMS termination services in general, and were not focused on A2P SMS termination.

¹⁹⁶ Danish Business Authority (2015), 'The wholesale market for SMS termination in Hi3G Denmark ApS' mobile network', 19 August, p. 35 [translated from Danish]. This decision related to Hi3G Denmark ApS. The same conclusion was reached by the CBA in respect of each mobile operator active in Denmark.

¹⁹⁷ Danish Business Authority (2015), 'The wholesale market for SMS termination in Hi3G Denmark ApS' mobile network', 19 August, p. 36 [translated from Danish].

¹⁹⁸ Danish Business Authority (2015), 'The wholesale market for SMS termination in Hi3G Denmark ApS' mobile network', 19 August, pp. 38–39 [translated from Danish].

¹⁹⁹ Assembly (2024), 'Is it time to regulate SMS termination?', 10 July, Table 1.

Commission's expression of serious doubts that ARCEP's review sufficiently demonstrated the market would not tend towards effective competition on a forward-looking basis, when the indirect constraints at the retail level are properly taken into account, and that there does not exist a broader market including alternative messaging services in addition to SMS.²⁰⁰

While the fact that a market has not been subject to ex ante regulation does not in itself demonstrate that it is competitive, it does imply that the regulator has not identified sufficient competition concerns to justify intervening in the market. Where a regulator has deregulated a market, following a market review, this demonstrates that it has not identified sufficient competition concerns to justify maintaining regulation in that market. While recognising these limitations, we consider that the termination prices in countries that have not been subject to regulation or have been deregulated, can be indicative of the level of prices that may exist under conditions of workable competition.

Vodafone has constructed an internal dataset of indicative wholesale A2P SMS termination prices on an international basis, based on genuine routes for termination on recipient networks around the globe.²⁰¹ The indicative wholesale A2P SMS termination prices have been estimated by making informed downward adjustments to the retail A2P SMS prices charged by aggregators and MSPs in different geographies, taking into account Vodafone's knowledge of these markets. While the dataset can only be considered as being indicative of the level of A2P SMS termination prices in each market, we consider that this can be informative of where the UK sits relative to comparable jurisdictions.

Figure 5.1 below presents the indicative A2P SMS termination prices in a sample of 12 EU member states included in Vodafone's internal dataset where we understand that the price of SMS termination is not subject to regulation, either in regards to A2P or P2P SMS. For each country, we plot the indicative A2P SMS termination rates charged by the selection of mobile operators included in the dataset for each EU member state. In Denmark and France, the market was deregulated in 2018 and 2015, respectively.²⁰² We understand that the SMS termination market has

²⁰⁰ European Commission (2014), 'Commission decision concerning: Case FR/2014/1668; Case FR/2014/1669; Case FR/2014/1670', 28 November, pp. 9–13.

²⁰¹ To clarify, these are not the A2P SMS termination prices charged by Vodafone in other countries.

²⁰² Assembly (2024), 'Is it time to regulate SMS termination?', 10 July, Table 1.

never been subject to ex ante regulation in the remaining ten countries.²⁰³

Figure 5.1 Indicative A2P SMS termination prices in a sample of unregulated EU member states

[X]

Note: Prices for EU member states as of February 2025, presented in Pence Sterling. UK prices based on the latest standard A2P SMS termination prices provided to Ofcom.
Source: Oxera analysis based on: internal Vodafone dataset; [X].

This evidence indicates that there is a wide range of A2P SMS termination prices across EU member states (in which the respective NRAs have chosen not to impose regulation), implying that such a wide range of price may be consistent with conditions of workable competition. In Denmark and France, in which the SMS termination market has been deregulated, the indicative A2P SMS termination price ranges from 2.39–3.37p and from 3.16–4.13p, respectively. Across the remaining EU members states which have never been regulated, the indicative prices range from 0.85–6.26p.

Table 5.1 above presents the A2P SMS termination prices for BT/EE, VMO2 and Vodafone. Across these three MNOs, the current on-net A2P SMS termination prices range from [X]. Comparing the UK prices against the prices in the sample of EU markets in which SMS termination is not regulated shows that prices in the UK are not out of line with, and indeed lie towards the lower end of the range of, prices across the sample.

The finding that A2P SMS termination prices in the UK are similar to those in unregulated EU member states provides further evidence that A2P SMS termination prices in the UK are likely to be broadly consistent with the level that may be expected under conditions of workable competition.

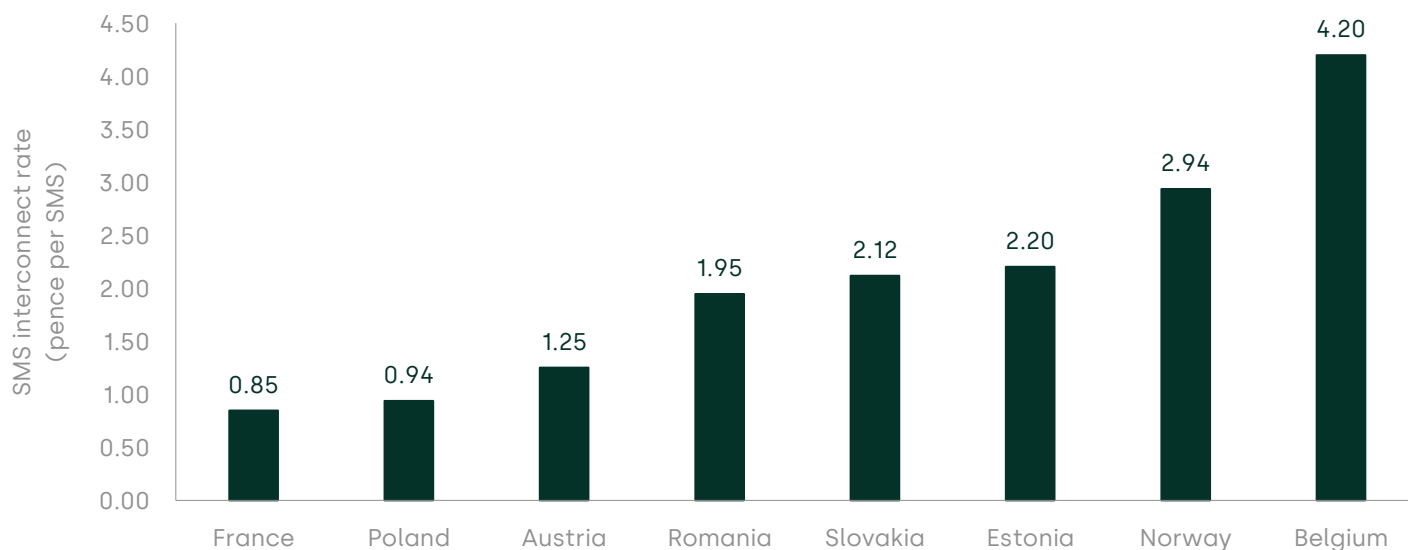
²⁰³ In 2014, the European Commission stated that SMS termination was not regulated in 25 out of 28 member states—we understand the three member states subject to regulation were Denmark, France and Poland (European Commission (2014), '[European Commission opens in depth investigation into French proposal to continue regulating SMS termination market](#)', 3 December; Assembly (2024), 'Is it time to regulate SMS termination?', 10 July, Table 1). In 2021, BEREC stated that SMS termination is not regulated in most EU countries (BEREC (2021), 'Termination rates at a European level', 30 June, p. 6). We have found no further evidence to suggest that SMS termination is regulated in these countries, either in general or in relation to A2P or P2P specifically.

BEREC evidence on SMS interconnect rates

The Body of European Regulators for Electronic Communications (BEREC) has published data on the wholesale SMS termination rates across EU member states.²⁰⁴ Specifically, it presents data on the SMS interconnect rates charged between operators, which drive off-net SMS termination prices.²⁰⁵ These rates relate to SMS termination in general—i.e. they do not relate specifically to A2P SMS termination. We consider that these can provide informative benchmarks as we understand these EU member states have either never regulated SMS termination or have deregulated it (in the case of France and Poland).²⁰⁶

In Figure 5.2 below, we present the rates for the selected EU member states that are included in BEREC's published data. The A2P off-net termination prices presented in Table 5.1 are broadly comparable to the SMS interconnect rates in the sample of EU member states. This further suggests that A2P SMS termination prices in the UK are consistent with the level that would be expected under conditions of workable competition. This comparison can be considered conservative given that off-net termination rates typically lie slightly above the interconnect rates.

Figure 5.2 SMS interconnect rates in EU member states (2021)



²⁰⁴ BEREC (2021), 'Termination rates at a European level', 30 June.

²⁰⁵ Given the numerous differences between the BEREC data and Vodafone's internal dataset of indicative wholesale A2P SMS termination prices, the two are not directly comparable.

²⁰⁶ We have not found evidence to suggest that the other EU member states included in Figure 5.2 have regulated wholesale SMS termination rates.

Note: We present the rates for the EU member states included in BEREC's published data. The SMS interconnect rate is rounded to two decimal points; the rates have been converted from eurocents using the 2024 average EUR to GBP exchange rate from the European Central Bank (0.84662).

Source: Oxera analysis based on: BEREC (2021), 'Termination rates at a European level', 30 June, p. 6; European Central Bank (2024), 'Statistics: Pound sterling (GBP)'.

Conclusions on international SMS termination benchmarks

Overall, the evidence presented above indicates that A2P SMS termination prices in the UK are broadly comparable to EU member states that have either been deregulated or never regulated. While recognising that there are limitations to this comparison, we consider it does provide informative evidence on whether of A2P SMS termination prices in the UK may be unfair. The evidence suggests that prices in the UK are not unfair when compared against international benchmarks that are informative of the level of prices that can be expected to arise in conditions of workable competition.

5.4 Conclusion

Taken in the round, the evidence presented in this section suggests that A2P SMS termination prices are consistent with those that would be expected under conditions of workable competition and are therefore fair, within its meaning under the United Brands test.

First, there is evidence to suggests that the prices are **not unfair when considered in themselves**. The evidence suggest that (i) the service provides significant economic value, (ii) that the MCPs' rationale for the price increases does not suggest they were exploitative, and (iii) A2P SMS termination prices have been historically higher than current prices (in both nominal and real terms), and that the recent price increases in real terms are significantly more modest than Ofcom's nominal analysis finds.

Second, there is evidence to suggest that prices are **not unfair when compared against comparator prices**. The evidence suggests that A2P SMS termination prices are broadly comparable to, and in some cases lower than, the prices of WhatsApp for Business and SMS termination rates in a sample of EU member states in which the SMS termination market has either been deregulated or has never been subject to regulation.

Overall, these findings, considered alongside the findings in section 4, suggest that Ofcom's concerns that prices are above the 'competitive' level, and thus may be excessive, have not been robustly demonstrated.

Rather, the evidence suggests that A2P SMS termination prices are likely consistent with those that would be expected under conditions of workable competition.

In respect of Ofcom's forward-looking concerns over A2P SMS price levels, we consider that one cannot properly understand the materiality of these risks without a clear view on what the competitive level might be. In any case, for the reasons set out in section 3, A2P SMS services are facing a variety of competitive constraints from alternative business messaging channels, notably WhatsApp for Business and in-app notifications. As discussed, the strength of these constraints is likely only to increase in the future. Therefore, we consider it is unlikely that MCPs will have the ability to raise and sustain A2P SMS termination prices above the competitive level in the future.

Therefore, we consider that Ofcom has not sufficiently justified the need to impose ex ante regulation, particularly in the form of a price cap that requires prices to be set at or below December 2020 levels (adjusted for inflation). In light of the above, it is not clear why competition law would be insufficient to address any future competition concerns that may (or may not) arise in relation to business messaging services. We consider that competition law does in fact offer a sufficiently strong backstop to address any competition concerns that may (or may not) arise in relation to business messaging services.

6 Further considerations regarding the suitability of ex ante regulation

6.1 Introduction

For the reasons outlined in sections 3 to 5, we (i) do not consider that the case for imposing ex ante regulation has been sufficiently made, and (ii) consider that competition law offers a sufficient backstop for Ofcom to address any competition concerns that may (or may not) arise in relation to business messaging services.

There are two further factors which suggest that competition law may be a more suitable option in this case. These factors should be considered in the context of Ofcom's regulatory principles of (i) operating with a bias against intervention and (ii) seeking the least intrusive regulatory mechanism to achieve its policy objectives.²⁰⁷ These are the following.

- 1 Ofcom is at risk of overstating the degree of harm that business senders and message recipients may be at risk of suffering.
- 2 There is a material risk of unintended consequences and costs of imposing ex ante regulations.

We discuss each of these considerations in turn below.

6.2 Risk of harm to business senders and message recipients

The evidence presented in sections 4 and 5 suggests that prices are consistent with those that would be expected under conditions of workable competition. This implies that there is unlikely to be harm to business users and, by association, message recipients that needs to be remedied. More generally, we consider that the risks of potential harm that Ofcom identifies are overstated.

First, as Ofcom's survey finds that business senders view A2P SMS services as providing good value for money, and that A2P SMS costs often represent a small share of businesses' overall costs, business senders may be unlikely to reduce their usage of A2P SMS services in response to price rises. In any case, as outlined in section 3, business senders have a range of alternative business messaging services they can (and do) use to communicate with their customers. This suggests that message recipients are likely to continue receiving communications

²⁰⁷ Ofcom (2023), 'Impact assessment guidance', 19 July.

from business senders and are thus unlikely to experience a loss of utility.

Second, given that Ofcom's survey evidence suggests that the 'overall expenditure on A2P SMS is typically perceived to be a negligible outgoing' and that in some cases it is a small proportion of overall budgets, the relative scale of any potential harm is likely to be small.²⁰⁸ Ofcom's survey found that, across the organisations sampled, the median spend per year on A2P SMS was £6,500.²⁰⁹ In light of the relatively small cost to business users as a proportion of their overall budgets, Ofcom's concerns over the adverse impact on growth and innovation appear overstated.

The above suggests that there is not a clear risk of significant and irrevocable harm to business senders and, crucially, citizens and consumers, such that ex ante regulation is justified (notwithstanding our findings in sections 3 to 5). This suggests competition law could be a sufficiently fast and effective tool to address future issues that may or may not arise.

6.3 Risk of unintended consequences from ex ante regulation

A relevant consideration in determining the appropriateness and proportionality of ex ante regulation, over and above a reliance on competition law, is the potential risk of unintended consequences and the costs imposed. These additional considerations, summarised below, further support the view that competition law offers a more suitable tool in this setting.

First, ex ante regulation in the form of a price cap imposes a strict constraint on MCPs. This constrains MCPs' pricing flexibility, and thus how common costs are recovered, at a time when operators are facing a broad set of financial challenges (as described in section 4.3.4).

In this context, restricting MCPs' ability to generate revenues through this route may lead operators to respond by reducing the quality and innovation of A2P SMS services, for example in relation to tackling scam and spam SMS messages and investments in enhancing the service's features to compete with rival business messaging services. In addition, MCPs may seek to offset the reduction in revenues through raising charges, or reducing quality, for other services they supply.

²⁰⁸ Ofcom Business Sender Research, p. 20.

²⁰⁹ Ofcom Business Sender Research, p. 8.

In this regard, we note that rival business messaging services would not be subject to the same regulatory constraints. This is in addition to the package of other regulatory obligations faced by mobile operators but not by other providers, such as online communication services. For example, mobile operators must comply with telecoms security and resilience measures,²¹⁰ and with emergency call requirements.²¹¹

We also note that Ofcom's proposed price cap could have unintended spillover effects on the incentives of alternative business messaging services, which are not subject to the cap but compete with A2P SMS services. For example, if the cap constrains the pricing of business messaging services in general this could, in turn, undermine the incentives of alternative business messaging services to invest and innovate in their services

Second, the decision to intervene in a market which has historically not been subject to ex ante regulation will send a regulatory signal to investors. This, alongside other similar regulatory interventions, could reduce investors' confidence that they will be able to make the required returns to justify further investments.²¹² This is in the context where there is a future need for significant investment by mobile operators and a challenging profitability picture (as discussed in section 4.3.4).

Third, the introduction of ex ante regulation in a previously unregulated market imposes additional regulatory compliance costs on MCPs and Ofcom—for example, through needing to monitor compliance with the price cap and engaging with Ofcom. In this context, we note that Ofcom is proposing to apply the regulation to 51 MCPs, many of which will be small firms that are unlikely to have sophisticated regulatory compliance functions.

6.4 Conclusion

In the context of the discussion in this section, and more broadly in sections 3 to 5, Ofcom must carefully weigh up the costs and benefits of

²¹⁰ See the Telecommunications (Security) Act 2021 and the Electronic Communications (Security Measures) Regulations 2022.

²¹¹ Ofcom (2025), 'General Conditions of Entitlement: Unofficial Consolidated Version', 1 February, Condition A3.

²¹² For example, in 2024 Ofcom intervened in the broadband and mobile markets to impose rules that prohibit operators from including in-contract price increases which are (i) linked to inflation and (ii) presented in percentage terms (see Ofcom (2024), 'Prohibiting inflation-linked price rises: Statement', 19 July).

its proposed intervention, taking full account of its regulatory duties and impact assessment guidance.

Our view is that, given the reasons we set out above in this report and the costs associated with intervention, any benefits from introducing regulation for A2P SMS services are unlikely to outweigh the likely costs. Therefore, there is unlikely to be sufficient justification to support the imposition of an ex ante cap on the prices of A2P SMS services as Ofcom proposes.



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