

By email

Confidential - not for public release

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Vodafone/Sky - Spark's submissions on the [REDACTED]

1. Introduction

1.1 This submission comprises Bell Gully's response to confidential information included within Spark's response to the Letter of Unresolved Issues (the **LOUI**) that Bell Gully has received subject to undertakings.

1.2 In short, Spark's claims about [REDACTED], lack credibility.

2. Fixed market

2.1 Spark is New Zealand's largest telecommunications provider, a position it inherited following its demerger from Telecom. At [REDACTED], its broadband market share is around [REDACTED] higher than [REDACTED]. Looking at share of new fibre adds (based on the most recent quarter), its share is [REDACTED] higher than Vodafone's (being [REDACTED] compared to [REDACTED] for Vodafone).¹ [REDACTED] its claims that [REDACTED] do not stack up (see paragraphs 77 to 79 of the Spark submission on the LOUI).

2.2 If Spark's assertions that [REDACTED] [REDACTED] [REDACTED] On the contrary, the market is highly competitive across the spectrum of customers and Spark's competitors quite clearly do provide the market with high quality services. Spark itself has acknowledged as much (see its response to the Statement of Preliminary issues where it stated that: "the broadband / mobile markets, [...] are currently highly competitive with low margins").² Indeed, if Spark's assertions were correct, [REDACTED] [REDACTED]

¹ See Vodafone's response to Commission's queries of 29 November 2016.

² See Spark's response to the Statement of Preliminary Issues at 80

2.3 In reality, for the reasons previously submitted by Vodafone, the market is currently highly competitive with a large number of operators competing across a broad spectrum of factors, which appeal to different customers. The Proposed Transaction will, if anything, increase this level of competitive intensity.

2.4 Spark also claims that the Proposed Transaction will [REDACTED]
[REDACTED]
[REDACTED] Spark neglects to mention that [REDACTED]
[REDACTED] Rather, it appears to demonstrate vigorous competition in action, which will no doubt continue post- acquisition.

2.5 Finally, [REDACTED]
[REDACTED]. As demonstrated previously:

- (a) Vodafone does not expect the Proposed Transaction to result in a [REDACTED]
[REDACTED]; and
- (b) in any event, [REDACTED], there is simply no basis to conclude that any new customers drawn to the SKY/Vodafone merged entity [REDACTED].

3. Mobile market

3.1 Spark's arguments in relation to mobile are equally far-fetched. Spark provides no evidence that the Proposed Transaction could result in it or 2degrees [REDACTED]
[REDACTED] it is simply not credible for Spark to say that the Proposed Transaction could [REDACTED]
[REDACTED]. As previously submitted by Vodafone, both Spark and 2degrees have substantial [REDACTED]
[REDACTED].

3.2 Spark's argument that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

4. Other matters

4.1 While Bell Gully is unable to comment on all confidential claims made by Spark without the ability to consult with Vodafone, there are some additional confidential claims made by Spark, which do not appear credible.

- (a) [REDACTED]
[REDACTED]
[REDACTED]
- (i) [REDACTED]
[REDACTED]

(ii) [REDACTED]

(b) [REDACTED]

4.2 In light of the arguments above, we consider that the Commission should place no weight on Spark's claims that [REDACTED]. However, if the Commission is minded to do so, it is important that we are notified of this so that we can establish an appropriate way to address confidentiality issues in order to allow for these matters to be properly tested with Vodafone.

Kind regards

[Sgd: Torrin Crowther / Glenn Shewan]

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