

21 November 2016

Susan Brown
Commerce Commission

Dear Susan

Public version [*Confidential as contains applicants' redacted material*]

Vodafone and Sky

1. Introduction

Concerns about inaccurate and incomplete information provided to the Commission and other stakeholders

- 1.1 In earlier submissions, we and others have outlined what can fairly be described as deep concerns about what is, and, particularly, what isn't, in what the applicants are telling the Commission. Spark, for example, in what is an unusually forthright statement for Spark, said in its 5 October submission that it considers that the applicants' submissions are "*deliberately disingenuous*", "*deliberately misleading*", "*incorrect, disingenuous, or deliberately obscure*".
- 1.2 We submit that the situation has further and substantially deteriorated in the latest submissions by the applicants. In particular, it is submitted that what is now being said to the Commission is contrary on multiple issues to what the applicants have told each of their respective groups of shareholders, what Vodafone has told other regulators when seeking to stop what they ask for here when "the boot is on the other foot", and contrary to what Sky's expert, Grant Samuel, has said to Sky shareholders. []
- 1.3 The purpose of this letter is to suggest ways by which the Commission might take some remedial steps. This letter is sent before cross-submissions, given tight time constraints before the indicative decision date, the suggestions that action is taken, the seriousness of the issues raised, and the implications for future clearance applications.
- 1.4 It is also noted that opposing parties, which includes InternetNZ, wearing a hat on behalf of consumers, continue to be put to trouble and expense which should not be happening if the applicants do what is required. This is a major concern for opposing parties.

- 1.5 Two examples of many illustrate these problems, chosen only as they can be briefly articulated for present purposes.

Example 1: Vodafone says different things to the Commission and to its shareholders

- 1.6 In its 11 November submission, Vodafone stated the following central conclusion, based on several pages of submissions focussing almost entirely on the status quo market conditions as the basis for assessing the future:

“...the merged entity will not be able to leverage SKY content to switch substantial numbers of customers to the merged entity’s broadband.”

- 1.7 This conclusion cannot be reconciled with Vodafone Group’s contrary statements to its shareholders in its 2016 annual report on the same central issue:

“Television and content, when bundled with broadband, are becoming increasingly important drivers of customer demand.”

“We’re aiming to expand our TV services, to support the take up of broadband. We already have TV services in seven markets.”

- 1.8 The applicant, Vodafone Europe BV, is Vodafone Group’s main holding company for the group’s trading entities. The circumstances in New Zealand are not different. In any event, what the applicant, Vodafone Europe BV, in fact is doing overseas, and knows from overseas, had to be disclosed to the Commission as that is relevant. Vodafone Europe BV has, by a senior employee, given an undertaking to the Commission to disclose all relevant material and that applies to all information, whether for or against its position.
- 1.9 When expanding on this example, below, we will also address the different approach by Sky and Vodafone, from what is happening in submissions to the Commission, in communications with Sky’s shareholders, and in communications with other regulators.

Example 2: An unusual selective quote by NERA, contrary to context

- 1.10 In its 11 November report, NERA said when claiming that an increase in marginal cost is not sufficient to create competitive harm, and that only exiting the market will do:¹

Regarding the sub-scale issue, the literature actually says that the rivals would need to be pushed out of the market. For example, Carlton Greenlee and Waldman (2008, 618 – 619) state:

It is not enough to show that the rival firm was “foreclosed” from some customers or that it was foreclosed from a substantial share of them. The key to establishing competitive harm is showing the foreclosed business left insufficient scale for the firm to remain in business...

¹ NERA Report 11 November at Para 16

- 1.11 The NERA conclusion is contrary to the full Carlton et al article being quoted.
- 1.12 It is, even more remarkably, directly contrary to the words immediately before and after the selective quote by NERA, which are added in bold here around the quote used by NERA above:

“Thus, this instruction is consistent with our approach only if “substantially foreclose” is interpreted to mean something like “deny enough of the market to drive the competitor out of business or raise its marginal cost.” It is not enough to show that the rival firm was “foreclosed” from some customers, or that it was foreclosed from a substantial share of them. The key to establishing competitive harm is showing that the foreclosed business left insufficient scale for the firm to remain in business **(or the denied scale led to increased marginal cost).”**

Suggestions to remedy these problems

- 1.13 Our letter suggests:

- (a) One approach is to simply disregard most of the submission and evidence put forward by the applicants and NERA as being irrelevant. For example, as to their reliance upon the status quo as pointing to the position in the future factual or counterfactual, that can be treated as mostly irrelevant to the required assessment;
- (b) A related and overlapping approach is to make a credibility and/or value based assessment, including based on the different and future looking evidence and position in other material, such as the Explanatory Memorandum (EM), the Grant Samuel report, and Vodafone Group annual reports. As Vodafone helpfully point out in their 11 November submission, they also must ensure the Sky EM is accurate, and that the applicants have statutory FMCA duties to be accurate in the EM.
- (c) However, if that leaves the Commission with a view that the application should be cleared then the next steps are, it is respectively submitted, both valuable for the Commission’s decision making, and necessary from a legal perspective.
- (d) Information requests, set out in more detail below, can be made of the applicants and possibly other parties – particularly from Vodafone Europe BV and as to information given to Grant Samuel.
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- (e) An approach to the disclosure of information to the public
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- (f) [

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Overview of this letter

1.14 Following this introduction, we:

(a) expand on the first above example (there is a number of others, but we limit this letter to particular examples, noting that the concerns are substantially wider, and there are overlapping concerns where submitters have no visibility, as noted in earlier correspondence);

(b) [

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(c) respectfully suggest steps that the Commission might take, to improve the information available to it and to submitters;

(d) address a third example, namely as to the relevance of the mobile markets, said by the applicants in the latest submissions to be largely immaterial (contrasting with what Vodafone is saying and doing overseas). We show that live sport mobile packets - a key thing that the applicant, Vodafone Europe BV, submits will not be a significant factor here - is exactly what Vodafone Europe BV firmly promotes in at least three countries. As Vodafone Greece state in their marketing of live sport over mobile in a zero-rated bundle:

“Now you can watch live TV on your mobile phone anytime. Watch live the matches of your favourite football team...”

Overriding concerns

1.15 [

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1.16 This letter raises further concerns in that regard, arising out of the applicants' 11 November submissions and experts' report.

1.17 The identified concerns are not isolated. [

given.] Multiple examples have been

A sniff test

1.18 In their 11 November submissions, the applicants have gone even further in relying on the status quo circumstances to show what the future will be.

NERA also continues to rely on the status quo, such as current market experience of Vodafone and Sky, as shown by market surveys []

1.19 Submissions by other parties that raise obvious points as to changing market and technology circumstances, making the status quo largely immaterial for the assessment, are not answered by the applicants or their expert, NERA. Obvious points such as that what is called a “synthetic” bundle of standalone satellite content, separate from fixed line and mobile, is largely irrelevant to assessing market conditions where new transmission channels (such as UFB) become central, as do integrated and seamless bundles over the same transmission path. That is a very different proposition and []. For example, an obvious point is that the current levers to compete as to Sky and Vodafone bundles are limited largely to price. But the integrated and seamless bundles of the future enable multiple ways of discriminating and differentiating.

1.20 All that can be described without exaggeration as obvious and very well known. The applicants and NERA know it. Such convergence paths are dominating the discussions here and internationally. But there are many more relevant market changes besides, such as declining Sky customer numbers and, []

(a)

(b) []

1.21 One wouldn't know the above – such as the major market and technology changes during the factual and counterfactual periods – from reading what the applicants are telling the Commission, or from NERA's reports, apart from relatively brief mention in the applications as to some market changing conditions.

1.22 But one would very clearly know it though from reading what the applicants say to each of their groups of shareholders, from what Grant Samuel, Sky's expert, tells the market, and from what Vodafone tells other regulators.

[]

1.23 We turn now to the body of this letter, starting with more detail on the first example above.

2. Example of the problems addressed in this letter

What Vodafone said to the Commission

2.1 What Vodafone states to the Commission cannot be reconciled with its statements elsewhere. The applicant, Vodafone Europe BV, Vodafone

Group's main holding company for trading companies such as Vodafone NZ, states in its 11 November submission to the Commission:²

"...the merged entity will not be able to leverage SKY content to switch substantial numbers of customers to the merged entity's broadband."

[Because online uptake to date of SKY is very small] "...the evidence strongly suggests that SKY content is unlikely to increase in importance as a driver of broadband uptake in the future."

What Vodafone said to its shareholders

- 2.2 But the Vodafone Group 2016 annual report states to the contrary,³ in addressing global operations including New Zealand:

"Television and content, when bundled with broadband, are becoming increasingly important drivers of customer demand."

"We're aiming to expand our TV services, to support the take up of broadband. We already have TV services in seven markets."

- 2.3 The Vodafone Group annual reports of what it is doing internationally presents a very different world across the board around where content and telecommunications services are headed generally, from what the applicants are submitting, and the NERA reports are addressing.

What Vodafone said to other regulators

- 2.4 As an example of what Vodafone has said to other regulators, Vodafone stated to Ofcom the contrary of what it is saying to the Commission as quoted above, when "the boot was on the other foot". In a passage that is directly applicable here, despite Vodafone's earlier assertions to the contrary (highlighting added):⁴

"The advent of new fibre networks also means that the technology does not define the service a customer receives any more. Instead services such as pay TV can be provided over a variety of platforms whether satellite, cable, fixed or mobile broadband. **As consumers are increasingly attracted to bundled offers of TV, broadband, fixed and mobile voice services, the control of that exclusive content will increasingly steer their overall purchasing decisions.** Therefore, exclusive 'must have' content is no longer just a TV issue, but impacts across the whole of the £43bn telecommunications and TV market... **Ignoring the effects of 'key content' across wider and traditionally unrelated markets, such as mobile or broadband only customers, will have an enduring and irreversible effect, as the focus moves to TV bundled competition.**"

² Vodafone 11 November submission at Para 1.6

³ Vodafone Group PLC, Annual Report 2016 (17 May 2016) at page 12

⁴ Vodafone response to Ofcom's consultation: Strategic Review of Digital Communications discussion document (8 October 2015) (https://www.ofcom.org.uk/data/assets/pdf_file/0025/45934/vodafone.pdf) at pp 2-3, 8-9

What Vodafone and Sky say to Sky shareholders

- 2.5 What the applicants and their experts have to say to the Commission in the latest submissions and experts' report continues the theme in public documents – [] with its forward-looking market changing focus – of relying almost solely on what the status quo tells us about what will happen in future. That is, current market conditions and technologies are relied on, such as the largely standalone components in Pay TV over satellite and voice and broadband over fixed line/mobile.
- 2.6 This is despite opposing parties' submissions repeatedly outlining the changed market and technology conditions. These opposing submissions are largely not addressed by the applicants, which is telling of itself, given these conditions are an obvious elephant in the boardroom.
- 2.7 In its Explanatory Memorandum (EM) to shareholders, Sky (and Vodafone, for as they say, Vodafone has legal obligations to ensure accuracy and validity in the EM⁵) present a substantially different world from that outlined to the Commission in the applicants' submissions and the NERA report, with their strong focus on the status quo continuing.
- 2.8 In the EM, there is considerable focus on the major changes, opportunities and challenges in the future, such as UFB opportunities/threats, integrated and seamless bundles across content, mobile and fixed line, etc.
- 2.9 The Vodafone Group annual reports are not the only place where, on the above and many other issues, Vodafone goes into substantial detail on how, not at all surprisingly, the major market and technology changes are dominating the future (including during relevant counterfactual and factual periods).

What Grant Samuel says to Sky shareholders

- 2.10 The Grant Samuel report and the summary letter dated 10 June 2016 do likewise, with extensive reference to the future market conditions and technologies, with associated opportunities and threats if the merger goes ahead and if it does not. There is a stark contrast as against what the applicants (and NERA) are telling the Commission (where they are firmly rooted in submitting that the future for factual and counterfactual purposes is to be assessed based mostly on the status quo).

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2.11 []

2.12

⁵ Vodafone 11 November submission at Para 17.4

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3. Implications as to information held by Vodafone, Sky and Grant Samuel

A caveat

- 3.1 We are only giving three examples in this letter, supplementing the earlier concerns expressed by opposing parties. The concerns are substantially broader than this, and indicate a broader approach to questioning the applicants' submissions and the NERA reports. In earlier letters the reasons for this have been outlined, including that submitters "don't know what they don't know", the more so as the Commission has decided not to provide more material (see the end of our 11 November submission in that regard).

Grant Samuel

- 3.2 As noted above, Grant Samuel have a strong focus on future market conditions and technology, away from the status quo, and little of that is apparent from what the applicants and NERA are telling the Commission in public submissions, with their strong focus on the status quo, save for brief overview comments in the application.

- 3.3 For example, as Grant Samuel note in their summary letter to shareholders dated 10 June 2016:

"The Proposed Transaction is a response to a fundamental deterioration in Sky TV's strategic position"

"The Proposed Transaction will be transformational for Sky TV.

Globally, technological developments have driven a growing convergence of the telecommunications and video entertainment sectors. In response to both the competitive threats and the opportunities resulting from this convergence, sector participants have generally sought to build capabilities to deliver a broader suite of telecommunications, internet and video services, whether organically, through acquisitions or by alliance. The Proposed Transaction will in a single step transform Sky TV's competitive position in the New Zealand market. The Combined Group will be the only participant with meaningful positions across all relevant market sectors. It will have market leading positions in the mobile telephony and video entertainment sectors and strong fixed line broadband and telephony businesses. [It will hold] the leading portfolio of video content (including rights to all the most popular New Zealand sports)... It will be well positioned to take advantage of the opportunities afforded by the roll-out of the ultra fast broadband ("UFB") network across New Zealand.

- 3.4 And, in a passage from the same summary letter which also points firmly away from the relevance of the status quo, Grant Samuel say:

"The Combined Group will be able to sell bundled fixed line and mobile, pay television and internet packages more effectively than either business under the existing alliance arrangements.

Subscribers for these bundled packages are typically much “stickier” than subscribers to a single product (e.g. pay television or mobile phone)...”

- 3.5 As is to be expected, because Grant Samuel is advising whether shareholders should vote for the merger instead of other options, Grant Samuel’s analysis overlaps with the Commission’s factual and counterfactual analysis. For example, Grant Samuel notes at Page 105 of its report:

“It is possible to construct a variety of hypothetical but plausible outcomes for the long term future of a standalone SKY TV. The range of outcomes is potentially very wide.”

- 3.6 Because Grant Samuel focusses on what will happen in the future, instead of the focus of the applicants’ and NERA’s statements to the Commission based mainly on the past, we submit that information held by Grant Samuel and/or provided to Grant Samuel by the applicants and their advisers would be valuable for the Commission. [

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- 3.7 What is apparent is that the focus on the status quo, in what the applicants are saying to the Commission is remarkable, given the well-known major market developments, including as outlined by the applicants and the expert, Grant Samuel. This mechanism helps deal with the elephant in the board room.

- 3.8 It also helps deal with related problems such as the [

and by NERA, as outlined for example in our 11 November 2016 confidential submission. [

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- 3.9 In terms of confining scope of an information request, a useful start, and possibly all that is needed, is to get all documents provided by the applicants and their advisers to Grant Samuel. Privilege claims ought to be vetted closely, it is submitted.

EY and AT Kearney

- 3.10 If, however, Grant Samuel have only been provided with one model, then more fulsome information can be obtained such as in documents passing between the applicants, their boards, Ernst and Young, and/or AT Kearney. But, initially, seeing a copy of the documents provided by the applicants and their advisers to Grant Samuel may be enough.

- 3.11 [

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Vodafone Europe BV

- 3.12 This applicant, as the major holding company for Vodafone trading companies, has considerable information, strategy papers, etc, which inform the issues being addressed by the Commission. This was first raised by InternetNZ in its first submission, in answer to Vodafone Europe BV's submission that the prospect of Vodafone NZ zero rating over mobile was "entirely speculative", when in fact that was exactly what Vodafone Europe BV was doing in other countries.
- 3.13 Evidence from offshore can be highly relevant, if not more relevant. Often the best evidence comes from what applicants say (handled with caution). The applicants push the point that the Commission must rely on evidence,⁶ although seemingly to say that this means status quo hard data such as market surveys in the status quo. But evidence includes forward looking material such as strategy documents, modelling, and so on.
- 3.14 It appears that the actual position as to future markets and technologies is very well known to Vodafone Europe BV including its related and subsidiary companies. It is submitted that, for example, the contrary statements noted at the start of this letter, to the Commission and to Vodafone shareholders, illustrate why further information ought to be requested of Vodafone Europe BV. We do not define this specific information here because (a) we are just providing an example; (b) there are multiple issues; and (c) submitters "don't know what they don't know" in terms of other issues.

Sky and Vodafone

- 3.15 In addition to international information, there is the information underpinning the very different approach in the EM from the statements to the Commission. Thus, it is respectfully submitted that information requests on what underpins the approach in the EM, including modelling options considered, may provide valuable insights. There are some specific issues, [

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4. []

4.1 [

⁶ See eg Part B in the 11 November Vodafone submission

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4.2 [

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4.3 [

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4.4 But at least the above information requests will go some way to remedying the problems.

5. The Sky counterfactual and the Sky and Vodafone synergy documents

5.1 [

5.2

5.3

5.4

5.5

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6. What the applicants now say about mobile

6.1 Both applicants now say uptake of content over mobile is largely immaterial, particularly as to live sports. Again, the focus is squarely on

the status quo reasons why that is so, such as current miniscule mobile uptake of Sky content and Sky sports content. As to live sports, they each give reasons why viewers tend not to watch it on mobile (e.g. viewers tend to prefer watching live sports, etc). there is little or no reference to how this may change as the markets and technologies change.

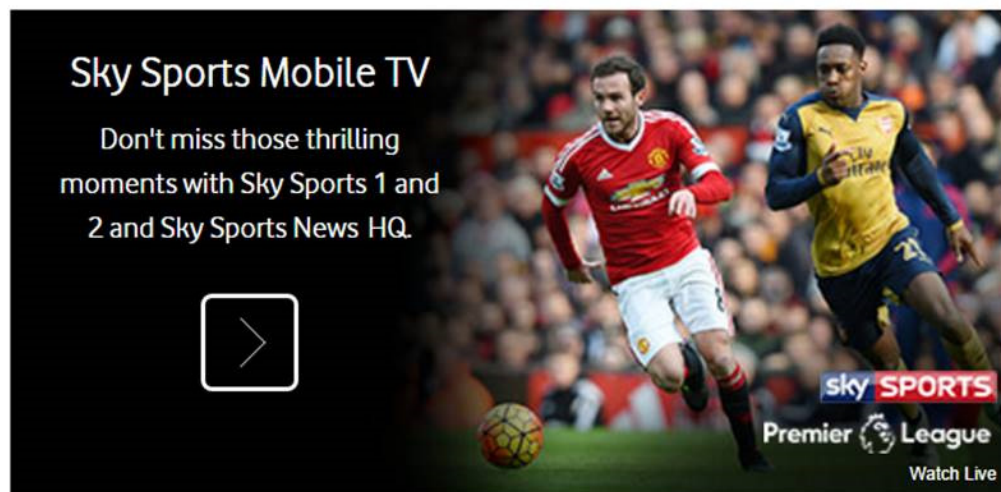
6.2 As outlined below, the applicant, Vodafone Europe BV, contrary to what it said to the Commission on 11 November in its submission, is firmly promoting live sport access over mobile. It sells packages for live sports over mobile. Below we give three examples: Ireland, the UK and Greece (with Greece making the point most clearly).

6.3 []

6.4 [] This is an example where an appropriate information request can be made of the applicant.

6.5 InternetNZ has outlined services as to own content provided on a zero-rated basis to Vodafone Ireland customers (although that zero-rated service is currently suspended). (Vodafone Ireland is a subsidiary of the applicant). Both Vodafone Ireland and Vodafone UK assertively market Sky Sports over mobile, implying that the applicant, Vodafone Europe BV, would not agree with the statements it is making to the Commission on 11 November. But even if Vodafone Europe BV argues the circumstances are different here, the information it and its subsidiaries have is highly material.

6.6 We turn to the UK first with this from Vodafone UK website, at <http://www.vodafone.co.uk/explore/music-tv-and-sports/>:



6.7 And at <http://www.vodafone.co.uk/explore/music-tv-and-sports/sky-sports-mobile-tv/>:

Sky Sports Mobile TV

Benefits
Vodafone apps
Music, TV & Sports
NOW TV
Spotify
Sky Sports Mobile TV
Vodafone Charge to Bill
Costs
Network

Sky Sports Mobile TV. A front row seat, wherever you are

Enjoy up to 24 months' access to Sky Sports 1, 2 and Sky Sports News HQ when you buy a Red Value Bundle (excluding Red Value 2GB Bundle) or a SIM only Red Value Bundle.

Sky Sports Mobile TV is available on a variety of devices



Never miss a thing

With up to 24 months of Sky Sports 1, 2 and Sky Sports News HQ you can enjoy the best live sport wherever you are including Premier League football, cricket, tennis and much more.



Sports on the go





Premier League football




Sky Sports 1 and 2



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@VodafoneUK

Struggling to pick your #4G entertainment pack? Check out what's coming up on TV, #4GSport and #4GMusic this month vdfn.co/April4G

 **April 2015 on 4G: What's hot on ...**
Having difficulty choosing your Vod...
blog.vodafone.co.uk

  05 Apr


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Can't make the choice between TV, #4GMusic or #4GSport? Check out our March entertainment round up to help you decide vdfn.co/march4G

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6.8 Vodafone Ireland is currently promoting Sky Sports Mobile TV in a similarly assertive manner to Vodafone UK (at <http://www.vodafone.ie/red-connect/sky-sports/>):

Sky Sports Mobile TV



Sky Sports Mobile TV on RED Connect bill pay plan
exclusively on Vodafone

Sky Sports Mobile TV on Vodafone gives you unlimited live access to Sky Sports 1 & 2 live on your mobile, so you never have to miss another minute of the action. Catch all the big games live on the go, including the Barclay's Premier League and Champions Cup Rugby.

With Sky Mobile you can:

- > Stream live sports straight to your smartphone
- > Watch all the latest Premier League & Formula 1 on Sky Sports Mobile TV 1 & 2
- > Need more? Upgrade to Sky Sports Mobile TV Pack 2 to get Sky Sports 3, 4 & 5, F1, Sky Sports News all live on your mobile



Vodafone Greece

- 6.9 The point becomes even clearer as to Vodafone Greece, which is also a subsidiary of the applicant, Vodafone Europe BV.
- 6.10 Vodafone Greece also provides zero-rated access to Vodafone's own content and that includes the sports channels,⁷ raising the issues noted in InternetNZ's 11 November submission and two earlier submissions.
- 6.11 Zero-rating content is a key strategy to drive customers to Vodafone mobile services and it is key consideration not only for the content markets but also, as outlined by InternetNZ in the Pay TV, mobile and fixed location markets.
- 6.12 In the screen shots below from Vodafone Greece's marketing, Vodafone states:

Now you can watch live TV on your mobile phone anytime.
Watch live the matches of your favourite football team....

⁷ See the Vodafone Greece website, which states "Watching Mobile TV free of charge in terms of data usage (i.e. does not bear any data usage charge and does not consume the available MB of your data tariff)". (http://www.vodafone.gr/portal/client/cms/viewCmsPage.action?pageld=10858&request_locale=en)

6.13 Translated by Google Chrome, Vodafone Greece market this service at <http://www.novasports.gr/applications/novasports-mobile-wap/#.WCt91OZ96Uk>:

The Novasports.gr play ball everywhere!

*The Vodafone customers are able to enjoy only the rich sports content Novasports.gr wherever they are in high definition (HD) to their mobile. Enjoy channel program Novasports 1, Novasports 2, Novasports 3 *, which are broadcast live in high definition encoded I264, stereo sound and a screen resolution of 320x240, through the Vodafone network, directly on your mobile.*

The service offers:

- *With service Novasports Mobile now have all sports live on your mobile!*
- *Live coverage of racing and sports viewing from Novasports channels 1, Novasports 2 and Novasports 3. ***
- *The highlights from the biggest championships and major sporting events.*
- *News of the sports news with reliability novasports.gr*

6.14 From another translated page on the Vodafone Greece website (http://www.vodafone.gr/portal/client/cms/viewCmsPage.action?pageId=10858&request_locale=en):

Personal Business world Vodafone Greece 🇬🇷 Ελληνικά 🛒 Basket (0) 👤 Sign in to My account

Phones & Plans **eShop** **Support**

You are here: [Personal](#) > [Phones & Plans](#) > [Vodafone Mobile](#) > [Internet](#) > [Apps & downloads](#) > [Mobile TV](#)

Mobile TV

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Vodafone Mobile
Vodafone RED+
RED
Exclusive Online offer
Vodafone 2all
Kartoprogramma
Internet
- On your phone
- On your laptop & tablet
- Abroad
- On your Mobile
- On your laptop & tablet
- Apps & downloads
- My Vodafone
- Welcome Tones
- Realtones
- Mobile TV
- Vodafone Backup+

Now you can watch live TV on your mobile phone anytime. Watch live the matches of your favorite football team and do not lose a minute from your favorite TV shows.

All Vodafone subscribers now enjoy the ability to watch high-definition television (HD) on their mobile, in HD encoded H264, stereo sound and screen resolution 320x240, through the network of Vodafone.

HD Mobile TV στο iPhone

Novasports Mobile

Watch the live TV broadcasting program from the first digital platform in Greece, with the live broadcasting of Channels **Novasports 1, Novasports 2 and Novasports 3**. All major championships and sport events, live and exclusively on your mobile in High Definition. Experience the thrills watching the Greek Super League, Euroleague, Greek Basketball Championship and the biggest sporting events across the world.

Novasports services

Novasports 1, 2, 3: Watch live all the best matches from Novasports 1

Novasports Highlights: Matches highlights and other great sports events

News- novasports.gr: all the latest sports news from novasports.gr

TV alerts: get alerted for the start of live broadcast of important sports events

Useful information

- + Where to find the service
- + Charges

6.15 None of the above is apparent from what the applicants are telling the Commission. What the applicants say is the opposite, and yet Vodafone at least has a different actual understanding and in fact is exactly doing what it says will not happen here or will have little effect.

7. Process context

7.1 In our 11 November 2016 submission, there were observations on process including as to documents, grounds and the prospect of a conference, with no decision yet on the latter.

7.2 The issues raised above fit within the bundle of issues and concerns that have been raised. For example, it is submitted the above provides further reason for a conference.

8. Disclosure of this letter

8.1 This letter contains reference to the applicants' redacted material, and can be shown to the applicants and to counsel and experts who have signed the undertakings.

Yours sincerely



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