

## **MOBILE RADIO NETWORK MARKET INVESTIGATION**

### **Summary of responses from Motorola Solutions, Inc. (Motorola) and the Home Office to unpublished working papers**

#### **Introduction**

1. On 13 May 2022, the CMA published a document called an overview of unpublished working papers.<sup>1</sup> This explained that the evidence that we gathered to date and our emerging thinking was set out in a series of working papers. It also explained that due to the commercial sensitivity of these working papers, some were only disclosed to Motorola or Motorola and the Home Office, rather than being published on our website.
2. This document provides a high-level summary of the comments we received from Motorola and the Home Office in response to the unpublished working papers listed below:
  - (a) Transfer Charges.
  - (b) Benchmarking.
  - (c) Airwave Network Contracts.
  - (d) The Role of the 2016 Change Control Negotiations.

#### **Motorola**

3. Motorola responded to the Transfer Charges, Airwave Network Contracts and the Role of the 2016 Change Control Negotiations working papers. Motorola did not provide a response to the Benchmarking working paper.

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<sup>1</sup> [Overview of unpublished working papers](#), 13 May 2022

### ***Transfer Charges Working Paper***

4. Motorola strongly objected to the adjustments made by the CMA to Airwave Solution's costs which Motorola stated lacked any justification and resulted in an understatement of the costs of the Airwave service.
5. Motorola set out its reasons as to why it strongly disagreed with the CMA's views in relation to the treatment of the costs associated with the parent guarantee, the strategic support fee, the hardware maintenance and support provided by MSI engineers, and the supply of equipment from Motorola.

### ***Airwave Network Contracts Working Paper***

6. Motorola provided clarification on certain statements made by the CMA in the contracts working paper. This included points around the application of discounts, 'unilateral' extension provisions and termination provisions.

### ***The role of the 2016 Change Control Negotiations Working Paper***

7. Motorola said that the CMA's approach to the Role of the 2016 Change of Control Negotiations working paper was inconsistent with positions it had adopted elsewhere in the Mobile Radio Network market investigation.
8. Motorola said that the CMA failed to consider the single most important factor that set the context for the 2016 negotiations, this being that the Airwave service negotiations regarding potential future extensions of key contracts had taken place in a context in which the Airwave service was to be replaced by the end of 2019.
9. Motorola submitted that in relation to the 2016 negotiations, and at all times thereafter in relation to the Airwave service there was nothing that could meaningfully be considered to constitute a market for the supply of an Airwave type service, given that there had just been competition for this market through the Emergency Services Network (ESN) tender which contractually locked down future supply. For this reason, the CMA's framework for the analysis of the negotiations was irrational, as it was based on a notion of assessing market power in a market dynamic which did not exist in 2016, or thereafter.

### **Home Office**

10. The Home Office responded to the Transfer Charges, Benchmarking, Airwave Contracts, and the Role of the 2016 Change Control Negotiations working papers.

### ***Transfer Charges Working Paper***

11. The Home Office said that Airwave Solutions is not a standalone firm transacting exclusively with third parties, including third party suppliers, but rather it is a part of the Motorola corporate group.
12. The Home Office stated that it was concerned about the high-level of transfer charges and their lack of visibility. The Home Office said that it would encourage the CMA to seek additional financial information (other than the statutory financial accounts), from Motorola to ensure that the CMA has adequate information to complete its assessment.

### ***Benchmarking Working Paper***

13. The Home Office considered that benchmarking provisions were likely to be largely ineffective in constraining prices, either through the benchmarking process itself or as a negotiation tool.
14. The Home Office explained the outcome of historic benchmarking exercises that had taken place.

### ***Airwave Network Contracts Working Paper***

15. The Home Office provided clarification on certain statements made by the CMA in the Contracts working paper. This included points around service charges, duration and extension provisions (including 'unilateral' extension), transfer of network assets, service contracts, extension pricing, deed of recovery, sharer organisations and termination provisions.

### ***The Role of the 2016 Change Control Negotiations Working Paper***

16. The Home Office considered that this paper presented an 'objective and balanced' summary of the dynamic between the Home Office and Motorola.