

MOBILE RADIO NETWORK SERVICES MARKET INVESTIGATION

The Mobile Radio Network Services Market Investigation Order 2023

Notice of intention to make an Order under section 165 of and Schedule 10 to the Enterprise Act 2002 and public consultation on the Draft Order

Background

1. On 5 October 2021, the Competition and Markets Authority (**CMA**) in the exercise of its power under sections 131 and 133 of the Enterprise Act 2002 (**the Act**) made an ordinary reference to the Chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 for an investigation of the supply of Land Mobile Radio (**LMR**) network services for public safety (including all relevant ancillary services) in Great Britain.¹
2. On 05 April 2023, the CMA, in accordance with section 136(1) of the Act and within the period permitted by section 137, published its report *Mobile radio network services market investigation: Final report (the Report)*.^{2 3}
3. In the Report the CMA decided, in accordance with section 134(1) and section 134(4) of the Act, that:
 - (a) features of the market for the supply of communications network services for public safety and ancillary services in Great Britain, individually or in combination, prevent, restrict or distort competition in connection with the supply of LMR network services for public safety in Great Britain and there

¹ [MRN services investigation terms of reference](#)

² [Final report \(publishing.service.gov.uk\)](#)

³ Unless stated, or the context requires otherwise, terms used in this Notice have the same meaning as in the Draft Order and the Report.

is an adverse effect on competition (**AEC**) for the purposes of section 134(2) of the Act;

(b) the AEC gives Airwave Solutions (and its owner, Motorola Solutions) the ability to price services above levels the CMA would expect to prevail in a competitive market and results in a detrimental effect on customers; and

(c) the CMA will take action under section 138 of the Act, by making an order (**the Order**) in accordance with section 161(1) of the Act for the purpose of remedying, mitigating or preventing the detrimental effect on customers, so far as it has resulted from, or may be expected to result from, the AEC.

4. The Order is consistent with and will give effect to the CMA's decisions included in the Report (explained in section 8 and Appendix K thereof in particular) to impose a charge control. The charge control will limit what Airwave Solutions and Motorola Solutions can charge customers for services within the scope of the charge control; and will require Airwave Solutions and Motorola Solutions to provide information to the Home Office and to the CMA to support the operation of the charge control.
5. The charge control will be applied from the day after the Order is made, and the existing contractual pricing arrangements set out in the PFI Agreement, the Police Service Contracts, the Ambulance and Scottish Ambulance Contracts and the Firelink Project Agreement will be amended and supplemented in accordance with the Order. Subject to a review in 2026, and to any variation of it, the Order will limit the revenue and charges for relevant services provided until 31 December 2029 and will remain in force until a final set of charges has been calculated and paid and Airwave Solutions and Motorola Solutions have complied with their final obligations (unless the earlier shutdown of the Airwave Network makes such a review and/or the continued operation of the Order no longer necessary).
6. The charge control will apply to the products and services provided by all Airwave Solutions' business lines, other than the following: Ambulance

Bundle 2; Pronto; the Command Centre Control Room Solution business; Radio terminals (except where part of a managed service); and services associated with the development and provision of any interface solution required for interworking and provided under the Interface Agreement.⁴

7. The charge control will specify an overall revenue allowance for each year of the control that will limit the level at which charges for goods and services within the scope of the control are set (in the manner set out in Appendix K of the Report), subject to certain matters including specified indexation arrangements and adjustments as a result of the cost sharing mechanism described in the following paragraph.
8. The charge control will include a cost sharing mechanism that applies to capital expenditure (capex) on external (ie non-Motorola Solutions supplied) equipment such that Airwave Solutions retains 75% of savings achieved relative to a pre-determined target level for the given year (with the other 25% subsequently returned to customers), and Airwave Solutions bears 75% of any over-spend relative to the target level (with the other 25% passed on to customers).
9. The charge control will require Airwave Solutions and Motorola Solutions to provide information to the Home Office (on its own behalf and that of Airwave Network users) and the CMA concerning the evolution of capex plans and spend over time. These requirements will include an obligation to respond in full, and in a clear and timely manner, to reasonable requests from the Home Office and the CMA for further clarification and substantiation with respect to the information provided. The charge control will also specify reporting and assurance requirements.
10. As described and explained fully in the Report, the CMA's findings are that Airwave Solutions and Motorola Solutions can set (and maintain) a price for services within the scope of the charge control very substantially in excess of

⁴ All such services being as described in the Report.

the competitive level. That ability is reflected in the generation of supernormal profits of around £1.27 billion from the operation of the Airwave Network between January 2020 and December 2029. That figure is the equivalent to charging almost £200 million per year more than the CMA would expect in a well-functioning market.

11. The charge control will mitigate the substantial detrimental effects described in the preceding paragraph by limiting Airwave Solutions' and Motorola Solutions' ability to price relevant Airwave Network services above levels the CMA would expect in a competitive market. It will set an appropriate price level for such services, established as described in the Report (and Appendix K thereof in particular). It forms part of an effective and proportionate package of remedies as explained in paragraphs 8.126 to 8.174 of the Report.
12. A draft Explanatory Note accompanying the Draft Order provides a further explanation of how the Order is expected to operate. In addition, the CMA has prepared a spreadsheet model - that is not part of the Draft Order or Explanatory Note and will not be part of the final versions – intended to offer a practical illustration of how the Order will operate and which may in due course (once the Order is made) assist in its application.
13. In accordance with section 165 and paragraph 2(1)(a) of Schedule 10 of the Act, the CMA hereby gives notice of its intention to make the Order, the purpose and effect of which are described above, on the terms attached to this Notice (**the Draft Order**). This Notice and the Draft Order, together with the draft Explanatory Note and the spreadsheet model, have been published on the CMA website.
14. The CMA invites written representations on the Draft Order from any interested person or persons. In particular, as to the way in which the methodology in the Draft Order would apply the charge control set out in the Report, about whether its specification gives rise to material circumvention risks and, if so, on how it may be appropriate to address such risks.

15. The CMA will have regard to any representations made in response to this Notice. The CMA may also make modifications to the Draft Order as a result of any representations. If the CMA considers that any representation necessitates a material change to the Draft Order, the CMA will give notice of the proposed modifications.

16. Representations must reach the CMA by 11.59pm on 16 June 2023.

17. Representations should be made by email to: MRN@cma.gov.uk

(signed)

MARTIN COLEMAN

Group Chair

18 May 2023