

ANTICIPATED ACQUISITION BY LIBERTY GLOBAL, TELEFÓNICA AND INFRAVIA (THROUGH THEIR JOINT VENTURE, NEXFIBRE) OF SUBSTANTIAL (INCLUDING NETOMNIA, BRSK, BRSK ISP AND YOUFIBRE)

UNDERTAKINGS GIVEN BY SUBSTANTIAL TOPCO LIMITED TO THE COMPETITION AND MARKETS AUTHORITY PURSUANT TO SECTION 80 OF THE ENTERPRISE ACT 2002

1. Whereas:
 - (a) On 1 July 2026, in exercise of its duty under section 33(1A) of the Enterprise Act 2002 (the **Act**), the Competition and Markets Authority (**CMA**) referred the anticipated acquisition of Substantial Topco Limited (**Substantial**) by Opal JVco Limited (**nexfibre**), a joint venture between Liberty Global Ltd (**Liberty Global**), Telefónica S.A. (**Telefónica**) and Crown Infra Bidco Limited, an entity wholly owned by funds managed by InfraVia Capital Partners (**InfraVia**) (the **Transaction**) to its chair for the constitution of a group of CMA Panel Members (the **Reference**) to determine in accordance with section 36 of the Act:
 - (i) whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and
 - (ii) if so, whether the creation of that situation may be expected to result in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services.
 - (b) The Reference has not been finally determined in accordance with section 79(1) of the Act. The CMA wishes to ensure that no action is taken pending final determination of the Reference which might prejudice that Reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the Reference.

Now for the purposes of preventing pre-emptive action, Substantial on behalf of itself, and where relevant, its subsidiaries, gives to the CMA the following undertakings pursuant to section 80 of the Act (the **Undertakings**).

1. COMMENCEMENT, APPLICATION AND SCOPE

2. These Undertakings come into force on the Commencement Date.
3. These Undertakings may be varied or superseded by another undertaking or may be released by the CMA under section 80(5)(b) or (c), respectively, of the Act.
4. Notwithstanding any other provision of these Undertakings, no act or omission shall constitute a breach of these Undertakings, and nothing in these Undertakings shall oblige Substantial to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the Commencement Date.

2. MANAGEMENT OF THE SUBSTANTIAL BUSINESS UNTIL DETERMINATION OF PROCEEDINGS

5. Except with the prior written consent of the CMA, Substantial shall not, during the specified period, take any action which might prejudice the Reference or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on the Reference, including any action which might:
 - (a) lead to the integration of the Substantial business with the nexfibre business;
 - (b) transfer the ownership or control of Substantial or any of its subsidiaries; or
 - (c) otherwise impair the ability of the Substantial business to compete independently in any of the markets affected by the Transaction.
6. Further and without prejudice to the generality of paragraph 5 and subject to paragraph[4, Substantial shall at all times during the specified period take all necessary steps to ensure that, except with the prior written consent of the CMA:
 - (a) the Substantial business is maintained as a going concern and sufficient resources are made available for the operation of the Substantial business, on the basis of its pre-Transaction business plans, which for the purposes of these Undertakings do not include a [X];
 - (b) no significant changes are made to the organisational structure of, or the management responsibilities within, the Substantial business, except in the ordinary course of business;
 - (c) the nature, description, range and quality of goods or services (or both) supplied in the UK by the Substantial business is maintained and preserved;

- (d) except in the ordinary course of business:
 - (i) all of the assets of the Substantial business are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the Substantial business are disposed of; and
 - (iii) no interest in the assets of the Substantial business is created or disposed of;
- (e) no changes are made to key staff of the Substantial business; and
- (f) all reasonable steps are taken to encourage all key staff to remain with the Substantial business.

3. COMPLIANCE

- 7. Substantial shall take all necessary steps to ensure that each of its subsidiaries complies with these Undertakings as if the Undertakings had been given by each of them.
- 8. Substantial shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Substantial and its subsidiaries with these Undertakings. In particular, on 30 July 2026 and subsequently every two weeks (or as otherwise agreed with the CMA) (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officer of Substantial or other persons of Substantial as agreed with the CMA shall, on behalf of Substantial provide a statement to the CMA in the form set out in Annex 1 to these Undertakings confirming compliance with these Undertakings.
- 9. At all times, Substantial shall actively keep the CMA informed of any material developments relating to the Substantial business, which includes but is not limited to:
 - (a) details of key staff who leave or join the Substantial business;
 - (b) any interruption of the Substantial business (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
 - (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the Substantial business including any substantial changes in customers' demand; and

- (d) substantial changes in the Substantial business' contractual arrangements or relationships with key suppliers.
- 10. If Substantial has any reason to suspect that these Undertakings might have been breached it shall immediately notify the CMA and any monitoring trustee that Substantial may be directed to appoint under paragraph 11.
- 11. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, these Undertakings, or do or refrain from doing any specified action in order to ensure compliance with these Undertakings. The CMA may vary or revoke any directions so given.
- 12. Substantial shall comply in so far as it is able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with these Undertakings.

4. ENFORCEMENT

- 13. Section 94 of the Act places a duty on any person to whom an enforcement undertaking relates to comply with it. Any person who suffers loss or damage due to a breach of this duty may bring an action. Section 94 of the Act also provides that the CMA can seek to enforce an enforcement undertaking by civil proceedings for an injunction or for any other appropriate relief or remedy. Under sections 94AA and 94AB of the Act, the CMA can impose financial penalties in respect of a failure to comply with an enforcement undertaking without reasonable excuse as set out in Annex 2 and the *Administrative penalties: Statement of Policy on the CMA's approach (CMA4)*.
- 14. It is a criminal offence under section 117 of the Act for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in fines, imprisonment for a term not exceeding two years, or both. In addition, the CMA can impose penalties if a person has, without reasonable excuse, supplied to the CMA information which is false or misleading in any material respect (section 110(1A) as described in Annex 2 and the *Administrative penalties: Statement of Policy on the CMA's approach (CMA4)*).

5. INTERPRETATION

- 15. The Interpretation Act 1978 shall apply to these Undertakings as it does to Acts of Parliament.
- 16. For the purposes of these Undertakings:

the '**Act**' means the Enterprise Act 2002;

'**business**' has the meaning given by section 129(1) and (3) of the Act;

'**Commencement Date**' means the date of issue of these Undertakings;

'**control**' includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

'**key staff**' means staff (i) in positions of senior executive or managerial responsibility or (ii) whose performance affects the viability of the business;

'**nexfibre**' means Opal JVco Limited a company registered in England and Wales, registered number 14253354;

the '**nexfibre business**' means the business of nexfibre and its subsidiaries, carried on as at the Commencement Date;

'**ordinary course of business**' means matters connected to the day-to-day supply of goods or services (or both) by Substantial and does not include matters involving significant changes to the organisational structure or related to the post-Transaction integration of Substantial with nexfibre;

'**specified period**' means the period beginning on the Commencement Date and terminating when the Reference is finally determined in accordance with sections 79(1) and (2) of the Act or earlier if agreed by Substantial and the CMA;

'**subsidiary**', unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

'**Substantial**' means Substantial Topco Limited with company number 12897000;

the '**Substantial business**' means the business of Substantial and its subsidiaries, carried on as at the Commencement Date;

the '**Transaction**' means the anticipated acquisition by nexfibre of Substantial;

unless the context requires otherwise, the singular shall include the plural and vice versa.

FOR AND ON BEHALF OF SUBSTANTIAL

Signature

Name

Title

Date

ANNEX 1

COMPLIANCE STATEMENT FOR SUBSTANTIAL

I [insert name] confirm on behalf of Substantial that:

COMPLIANCE IN THE RELEVANT PERIOD

1. In the period from [insert date] to [insert date] (the **Relevant Period**):
 - (a) Substantial has complied with the interim undertakings accepted by the CMA in relation to the Transaction on the Commencement Date (the **Undertakings**).
 - (b) Substantial subsidiaries have also complied with the Undertakings.
2. Subject to paragraph 4 of the Undertakings, and except with the prior written consent of the CMA:
 - (a) No action has been taken by Substantial that might prejudice the Reference or impede the taking of any action by the CMA which may be justified by its decision on the Reference, including any action which might:
 - (i) lead to the integration of the Substantial business with the nexfibre business;
 - (ii) transfer the ownership or control of the Substantial business or any of its subsidiaries; or
 - (iii) otherwise impair the ability of the Substantial business to compete independently in any of the markets affected by the Transaction.
 - (b) The Substantial business has been maintained as a going concern and sufficient resources have been made available for the operation of the Substantial business on the basis of its pre-Transaction business plans.
 - (c) No significant changes have been made to the organisational structure of, or the management responsibilities within, the Substantial business, except in the ordinary course of business.
 - (d) The nature, description, range and quality of goods or services (or both) supplied in the UK by the Substantial business have been maintained and preserved.
 - (e) Except in the ordinary course of business:

- (i) all of the assets of the Substantial business including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the Substantial business have been disposed of; and
 - (iii) no interest in the assets of the Substantial business has been created or disposed of.
- (f) No changes have been made to key staff of the Substantial business.
- (g) All reasonable steps have been taken to encourage all key staff to remain with the Substantial business.
- (h) Except as listed in paragraph (i) below, there have been no:
- (i) key staff that have left or joined the Substantial business;
 - (ii) interruptions of the Substantial business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Substantial business; or
 - (iv) substantial changes in the Substantial business' contractual arrangements or relationships with key suppliers.
- (i) [list of material developments]
3. Substantial and its subsidiaries remain in full compliance with the Undertakings and will continue actively to keep the CMA informed of any material developments relating to the Substantial business in accordance with paragraph 9 of the Undertakings.

Interpretation

4. Terms defined in the Undertakings have the same meaning in this compliance statement.

I understand that:

5. It is a criminal offence under section 117 of the Act for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **fines, imprisonment for a**

term not exceeding two years, or both.¹ In addition, the CMA can impose penalties if a person has, without reasonable excuse, supplied to the CMA information which is false or misleading in any material respect² as described in Annex 2.

6. As described in Annex 2, failure to comply with the Undertakings without reasonable excuse may result in the CMA imposing a **penalty**.³

FOR AND ON BEHALF OF SUBSTANTIAL

Signature

Name

Title

Date

¹ Section 117 of the Act.

² Section 110(1A) of the Act.

³ Section 94AA and 94AB of the Act.

ANNEX 2

PART A - ENFORCEMENT OF AN UNDERTAKING GIVEN UNDER SECTION 80 OF THE ACT – IMPOSITION OF CIVIL PENALTIES

Imposition of civil penalties

1. Under section 94AA(1), the CMA may impose a penalty on a person—
 - (a) from whom the CMA has accepted an enforcement undertaking, or
 - (b) to whom an enforcement order is addressed,where the CMA considers that the person has, without reasonable excuse, failed to comply with the undertaking or order.
2. In deciding whether and, if so, how to proceed under section 94AA(1) the CMA must have regard to the statement of policy which was most recently published under section 94B at the time of the failure to comply.

Amount of penalty

3. A penalty under section 94AA(1) is to be such amount as the CMA considers appropriate.
4. The amount must be—
 - (a) a fixed amount,
 - (b) an amount calculated by reference to a daily rate, or
 - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
5. A penalty imposed under section 94AA(1) on a person who does not own or control an enterprise must not—
 - (a) in the case of a fixed amount, exceed £30,000;
 - (b) in the case of an amount calculated by reference to a daily rate, exceed £15,000 per day;
 - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, exceed such fixed amount and such amount per day.

6. A penalty imposed under section 94AA(1) on any other person must not—
 - (a) in the case of a fixed amount, exceed 5% of the total value of the turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom it is imposed;
 - (b) in the case of an amount calculated by reference to a daily rate, for each day exceed 5% of the total value of the daily turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom it is imposed;
 - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, exceed such fixed amount and such amount per day.
7. In imposing a penalty by reference to a daily rate—
 - (a) no account is to be taken of any days before the service on the person concerned of the provisional penalty notice under section 112(A1), and
 - (b) unless the CMA determines an earlier date (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of the day on which the person complies with the enforcement undertaking or enforcement order.

PART B - PENALTIES FOR THE PROVISION OF FALSE OR MISLEADING INFORMATION

Imposition of civil penalties

1. Under section 110(1A) of the Act, the CMA may impose a penalty on a person in accordance with section 111 of the Act where the CMA considers that:
 - (a) the person has, without reasonable excuse, supplied information that is false or misleading in a material respect to the CMA in connection of any of the CMA's functions under Part 3 of the Act; or
 - (b) the person has without reasonable excuse, supplied information that is false or misleading in a material respect to another person knowing that the information was to be used for the purpose of supplying information to the CMA in connection with any function of the CMA under Part 3 of the Act.
2. Under section 110(1C) of the Act, the CMA may not impose such a penalty in relation to an act or omission which constitutes an offence under section 117 of the Act if the person has, by reason of the act or omission, been found guilty of that offence.

Amount of penalty

3. Under section 111(1) of the Act, a penalty imposed under section 110(1A) of the Act shall be of such amount as the CMA considers appropriate.
4. A penalty imposed under section 110(1A) of the Act on a person who does not own or control an enterprise shall be a fixed amount that must not exceed £30,000.
5. Under section 111(4A) of the Act a penalty imposed under section 110(1A) of the Act on any other person shall be a fixed amount that must not exceed 1% of the total value of the turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person.
6. In deciding whether and, if so, how to proceed under section 110(1A) of the Act, the CMA must have regard to the statement of policy which was most recently published under section 116 of the Act at the time when the act or omission occurred.