ANTICIPATED ACQUISITION OF SUBSTANTIAL BY NEXFIBRE
RESPONSE TO THE CMA'S INVITATION TO COMMENT ON
THE INTERIM REPORT

23 October 2026

1. We are writing in response to the CMA's invitation to comment on its interim report of 2 October 2026 (the "**Interim Report**") as part of its investigation of the anticipated acquisition by Liberty Global, Telefónica and InfraVia, through their joint venture nexfibre, of Substantial (including Netomnia, Brsk, Brsk ISP and YouFibre) (the "**Transaction**"). Liberty Global and Telefónica are the joint owners of VMED O2 UK Limited ("**VMO2**") and, together with InfraVia, joint owners of nexfibre (together, the "**Parties**").[1]

Introduction

2. We write on behalf of certain [Third Parties]. [✂]. The [Third Parties] have considerable experience [✂] in the telecoms sector.

3. [✂] [I]n 2026 alone, several altnets have entered administration, have had to be taken over by lenders or sought restructuring of their debts.[2] [✂] [T]he [Third Parties] are concerned about [✂] the health of the market.

4. [T]he [Third Parties] have observed that the three-network strategy is not prevalent in many (if any) significant markets, yet competition is strong. For example, it is publicly reported that Vodafone Spain has pivoted from building out a third network towards a wholesale strategy to avoid an uneconomical overbuild of its existing HFC (cable) network with FTTP.

5. Good and robust competition in fibre is not simply evidenced by the largest number of networks. It fundamentally means reaching as many UK homes as possible with a choice of supply from **strong** suppliers that can realistically be financed and sustained. This is arguably a better mark of good competition than merely maximising the number of homes passed repeatedly by weaker players, which can result in more homes being left behind without access to competitive and high-quality broadband. The Transaction, with its key

---

[1] We have taken note of the CMA's invitation to comment on remedies issued on 21 October 2026. We do not provide any comments on that front at this stage as our submission will show that there may likely be no need for a remedy if the Transaction is re-assessed against the appropriate counterfactual.

[2] For example, as publicly reported, Airband Community Internet Limited entered administration on 28 Aug. 2026; G.Network Communications entered administration on 12 January 2026; Gigaclear was taken over by its lenders in April 2026; and KCOM had to restructure £445 million in debt. Recently, and as addressed in this submission, public reports indicate a possible restructuring ask by CityFibre of its lenders. [✂] TalkTalk entered administration on 5 October 2026 and its operating business was acquired by BT in an instance of consolidation to that provider.

beneficial features including committed financing for further growth, in our view is a positive step towards a market structure that supports good and robust competition in fibre.

6. The [Third Parties] were surprised by the CMA's findings in the Interim Report. At Phase 2, the CMA applies a "more likely than not" standard, including in assessing the counterfactual – i.e. what is more likely than not to happen if the Transaction does not happen (the "**Counterfactual**").[3] For the reasons set out below, it is respectfully submitted that the Interim Report's provisional counterfactual should be revisited in light of material market developments that have emerged since evidence was initially gathered.

***First*, it is implausible that VMO2 will continue to invest in and upgrade its HFC network to FTTP in the covered geographies.**

7. Ofcom recognised that network build out involves "*significant capital investment*."[4] Because of these capital requirements, investment in fibre build-out where there is an existing altnet is generally limited because it generates a very low return on investment. A rational investor would typically only consider a major investment project, such as the HFC to FTTP upgrade, if the return on investment is greater than the cost of capital.

8. VMO2's cost of capital, which was already high given the difficult competitive environment in which it operates and had increased over the summer, dramatically worsened immediately after the Interim Report was issued, in apparent anticipation of the Transaction not completing. As an example, the 4.5% 2031 bond, which is its largest sterling denominated bond and representative of the cost of secured financing, had a yield of 9.9% one week prior to 2 October 2026. One week after the Interim Report was published (and with no other material events), the yield had increased to 13.8%. In addition, the market value of VMO2's debt declined by c.£ 2.3 billion between 1 October and 20 October. These are two of many examples that show a significant increase in the cost of capital, which is likely to make fibre upgrades uneconomic.

9. The changes in the yield and the market value of the debt provide clear evidence that investor confidence in VMO2's ability to refinance its existing debt and fund its investment plans fell directly after publication of the Interim Report.

10. As part of the Counterfactual analysis, the Interim Report considered whether any of three alternative fibre build scenarios for VMO2 (A in October 2025, B in June 2026 and C in September 2026) would likely occur. All three, however, predate the sharp increase in VMO2's cost of capital. At this point, if the Transaction does not occur, it is no longer plausible from a financing perspective that VMO2 would upgrade at a pace between A and

[3] CMA Merger Assessment Guidelines, para. 2.36.

[4] Ofcom, Promoting competition and investment in fibre networks: Telecoms Access Review 2026-2031, Vol. 2, para 4.350; see also paras 4.294 and 4.351–4.353. Ofcom also expects further network build over the review period to be more limited than to date, noting that some altnets have already scaled back their plans. It recognises that some providers may exit or scale back their operations. Ibid., Vol. 2, paras 2.33, 4.207, 4.296 and 4.352.

B, even if VMO2 wanted to proceed with the project. In the [Third Parties'] view, the board of a company lacking access to finance, and with material debt maturities from 2029 onwards, would not simply carry on with discretionary investment projects because it would not be responsible to do so. Given the increase in the cost of capital, even the redacted Build Case C from September 2026 posited in the Interim Report is no longer likely. The more likely outcome if the Transaction does not occur is that there will be no fibre build-out instead. This explains VMO2's consistent, publicly-stated position that the Transaction is essential to "*unlock*" essential UK market investment.[5]

11. The Transaction has fully committed funding for nexfibre which would finance the upgrade of homes in the overlapping areas and expand VMO2's FTTP footprint. In contrast, a standalone nexfibre upgrade to FTTP of homes in the VMO2 network is implausible in the Counterfactual. [✂] To that end, it is notable that nexfibre's chief executive referred to the assumption that VMO2 "would keep upgrading its cable network regardless of cost as the *"money grows on trees*" theorem."[6]

12. In the [Third Parties'] view, if the Transaction does not occur [✂]

***Second*, CityFibre is reported to be seeking a restructuring of its debt** [✂]

13. As the CMA may be aware, shortly after the Interim Report was published, it was reported that CityFibre is in discussions with its lenders about a restructuring reported to involve a write-down of £2bn of a c.£3.9bn loan[7] in exchange for equity and further shareholder equity investment.[8]

14. [✂] [T]he success [of a renegotiation] should not be treated as a given by the CMA. Conditional equity commitments in UK restructurings cannot be treated as certain. Recent examples from the market include Equitix's commitment of £420 million in funding to Gigaclear, only to be subsequently withdrawn after partial funding of c.£50 million.[9] Thames Water provides another illustration of committed financing from shareholders contingent on concessions from a regulatory authority failing to materialise. [✂] A hypothetical acquisition of Substantial by CityFibre is by no means secured.

---

5 See e.g. Interim Report, Para. 2.10(a).

6 Capacity, "£2bn Netomnia deal: nexfibre CEO says CMA case rests on 'money grows on trees' theory", 13 October 2026: https://capacityglobal.com/news/2bn-netomnia-deal-nexfibre-ceo-rajiv-datta/.

7 For information, in 2022, CityFibre entered into a £3.9 billion loan facility. In 2025, CityFibre refinanced with its existing lenders, increasing the committed loan facility by £960 million. See CityFibre Infrastructure Holdings Limited, Report and Consolidated Financial Statements for the year ended 31 Dec. 2025 (Companies House). Therefore, the loan size is, in total, somewhere between £3.9 billion and c.£ 4.8 billion.

8 See CityFibre Asks Banks to Restructure Debt and Fund M&A Deals - Bloomberg.

9 See Gigaclear seeks investors as Equitix halts funding - ION Analytics.

15. Finally, the Interim Report explicitly acknowledges that the valuation achieved by the Substantial shareholders would have been lower had it not been a competitive auction.[10] [✂].

Conclusions

16. Taken together, the evidence and recent developments show that in the Counterfactual (i) VMO2 is unlikely to upgrade and expand its network due to the high – and increasing – cost of capital combined with the very low prospect of return (ii) for the same reason a standalone nexfibre upgrade to FTTP of homes in the VMO2 network is implausible in light of its dependency on revenues from VMO2 and (iii) CityFibre is reported to be seeking a restructuring of its debt [✂].

17. Ultimately, if the Transaction does not occur, it is unlikely that there will be an increase in the number of homes with three networks from which to choose; rather, more likely than not, there will be a reduction in total spending on fibre roll-out. In the best case, it will result in two network operators in the overlapping areas, which is the same outcome as the Transaction but with a weaker competitor to BT/Openreach. It is difficult to see how the Transaction will result in a substantial lessening of competition. In a worst case, the Counterfactual risks leading to an increase in the number of homes with only one choice – the current incumbent – BT/Openreach. Further, because of the foreseeable dampening effect on investment in fibre build-out, BT/Openreach's market position will become further entrenched as they are likely to face less competition in the overlapping "footprints" and other areas of the UK that are outside the scope of the Transaction.

18. As a separate point, since BT has acquired TalkTalk it is reasonable that the CMA also consider whether this development has any impact on its review of the Transaction and the relevant market.

19. In closing, the facts underpinning the Interim Report have changed. [The Third Parties] respectfully request that the CMA continue its investigation in light of these market developments and, consistent with its recent decisional practice, issue a Supplementary Interim Report[11] with a counterfactual that takes into account these developments. This is important because, at present, [✂], thus reducing competition in the long run. [The Third Parties] believe that if the Transaction is assessed against an appropriate counterfactual, the CMA will ultimately conclude that the Transaction will not result in an SLC. [The Third Parties] are available to discuss any of these matters in greater detail.

* * *

[10] Interim Report, para. 5.69.

[11] See e.g. ME/7129/25, Anticipated Acquisition by Associated British Foods Plc of Hovis Group Limited (decision of 16 June 2026); ME/7096/24, Anticipated Acquisition by Global Business Travel Group, Inc. of CWT Holding, LLC (decision of 6 March 2025).