Dolby Laboratories Contribution to the Consultation on Draft Guidance on the Application of the Chapter I Prohibition in the Competition Act 1998 to Technology Transfer Agreements

Dolby Laboratories, Inc. ("Dolby") appreciates this opportunity to provide input on the Draft Guidance on the Application of the Chapter I Prohibition in the Competition Act 1998 to Technology Transfer Agreements (the "Guidelines"). Dolby offers a response to Questions 5.2 and 5.3.

Background

Since its founding in London in 1965, Dolby has operated with a focus on making new experiences possible by bringing technological ideas from conception to implementation. Today, Dolby continues to invent, develop, and market industry-leading audio and video technologies.

Dolby partners across the ecosystem and supply chain to bring many of its technologies to market. Many consumers are familiar with Dolby's branded technologies, like Dolby Atmos and Dolby Vision. To support these businesses, Dolby works closely with third parties to integrate Dolby-branded technologies into a variety of consumer products. TVs, computers, streaming services, mobile phones and even cars incorporate Dolby technology solutions and often bear the Dolby logo as a mark of quality.

Dolby also works collaboratively with other innovators through standards development organizations to develop cutting edge technology standards. Dolby contributes audio and video technologies for inclusion into standards. Once adopted, Dolby normally offers its patent rights relating to the standard for license alongside the patents of other contributors in patent pools, making them widely available for manufacturers to license.

Dolby realizes a significant portion of its revenues from licensing its intellectual property. Historically, this has supported Dolby's reinvestment of roughly 20% of its annual revenue into research and development of new audio and video technologies. This investment has allowed Dolby to develop successive generations of improved technology and to continue to bring its innovations to consumers in a variety of applications.

Patent pools have been a key feature of how Dolby has brought its audio and video compression technologies to consumers. They have served the market for decades and facilitated innovation resulting in successively improved generations of coding technologies. Dolby draws upon this experience to offer comment on the draft Guidelines.

Response to Question 5.2: Do you have any comments on the CMA's proposed approach to technology pools?

The CMA's proposed approach to technology pools largely follows the approach taken by the European Commission.[1] Dolby submitted several public comments to the European Commission on its draft guidance for technology pools.[2] Dolby repeats the key points of its comments on the revisions to the safe habour for technology pools here, which are largely relevant to the CMA's proposed approach.

In summary, Dolby supports the proposed amendments to the safe harbour as reflecting existing best practices by patent pools. Dolby stresses that patent pools can be a private-sector means of providing the transparency that is the subject of regulatory proposals under consideration by the UKIPO. Nevertheless, Dolby stresses to the CMA the need to apply the safe harbour in a manner that imposes proportionate costs on patent pools and is flexible enough to allow pools to use the best approaches to achieve the desired transparency.

The Inclusion of Transparency Requirements in the Safe Harbour Obviates The Need for Regulatory Approaches to Provide Transparency

Dolby is of the view that the goal of promoting transparency in patent licensing is best achieved through the promotion of private sector approaches to increase market efficiency and transparency. Patent pools have served as a vehicle for doing so for decades.

To the extent that there are concerns about the effectiveness of patent pool procedures to promote transparency, Dolby's view remains that the best approach is to provide best practices and guidance as to how pools should approach transparency – and not proscriptive regulation or the duplication of these practices by administrative bodies. By providing guidance to best practices regarding transparency, the proposed amendments to the safe harbour are generally consistent with this approach.

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[1] *See, e.g.,* European Commission, Guidelines on the application of Article 101 of the Treaty to technology transfer agreements at § 4.4 (16 April 2026) ("European Commission Guidelines"), https://competition-policy.ec.europa.eu/document/download/fa460e5a-c9a2-4757-a83e-2b236c20e281_en?filename=20260416_TTBER_adopted_guidelines.pdf .

[2] *See* Comments of Dolby Laboratories, Inc. Concerning the Revision of the Technology Transfer Block Exemption Regulation and Technology Transfer Guidelines (23 April 2025), https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14478-EU-competition-rules-on-technology-transfer-agreements-revision-/F3537448_en ; see also Contribution by Dolby Laboratories, Inc to Public consultation on the draft revised Technology Transfer Block Exemption Regulation and Technology Transfer Guidelines (23 October 2025), https://competition-policy.ec.europa.eu/document/download/3fbb7ffc-b589-4a34-a7c1-9e68b08ddb15_en?filename=2025_draft_revised_TTBER_contributions.zip

Proposed amendments to Articles 11.116(b) and 11.116(c) add requirements to the safe harbour that technology pools provide effective disclosure of licensed patent and the methodology for performing essentiality checks.[3] In Dolby's experience, the patent pools in which it participates either provide this information already or could do so.[4]

Dolby observes that patent pools which comply with these requirements would provide the transparency of patent rights that the UKIPO seeks to obtain through the measures proposed in its September 2025 SEP Consultation. The UKIPO sought input on a proposed "potential measure[]" involving "searchable standard related patent information."[5] The amended safe harbour would require that "the technology rights included in the pool are disclosed in an effective manner," and specify that "effective disclosure should include at least the patent number … and the country of registration."[6] In its discussion of the measure, the UKIPO observes that "the government believes it is important to improve transparency so that there is greater clarity around the standard related patents that need to be licensed to implement a standard."[7] It appears that the CMA's rationale for amending the safe harbour is the same as the stated goal of the UKIPO; the Consultation Document explains that "effective transparency can assist existing and potential licensees in assessing the scope and value of the technology made available through a technology pool."[8]

Dolby observes that the inclusion of these requirements in the Guidelines safe harbour provides the legal incentive for disclosure that the UKIPO explored in its consultation. Specifically, in its consultation, the UKIPO identifies "the possibility of mandating or incentivising the provision of such information under UK law."[9] The consultation asks "how should the IPO ensure information is supplied accurately by the rightsholder"[10] and "what

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[3] UK Competition and Markets Authority, Draft guidance on the application of the Chapter I prohibition in the Competition Act 1998 to Technology Transfer Agreements (30 April 2026) ("CMA Draft Guidelines"), https://assets.publishing.service.gov.uk/media/69f23ee00bb62e692c5d6e70/Consultation_draft.pdf

[4] For example, the Access Advance HEVC and VVC patent pools disclose patent lists. *See, e.g.* https://accessadvance.com/hevc-advance-patent-list/ ; https://accessadvance.com/vvc-advance-patent-list/ The Via LA AVC and HE-AAC pools also disclose patent lists. *See, e.g.*, https://www.via-la.com/licensing-programs/avc-h-264/#patent-list ; https://www.via-la.com/licensing-programs/aac/#patent-list .

[5] UK Intellectual Property Office Consultation on Standard Essential Patents (SEPs) at ¶¶ 72-81 (15 July 2025) ("UKIPO SEP Consultation ") https://www.gov.uk/government/consultations/consultation-on-standard-essential-patents-seps

[6] CMA Draft Guidelines Art. 11.116(b); n. 225.

[7] UKIPO SEP Consultation at ¶ 72.

[8] UK Competition and Markets Authority, Consultation document, Draft guidance on the application of the Chapter I prohibition in the Competition Act 1998 to technology transfer agreements at ¶ 2.17 (30 April 2026) ("CMA Consultation document").

[9] UKIPO SEP Consultation at ¶ 77.

[10] *Id*. at Q.19.

... sanctions should the government consider introducing to deal with non-compliance issues."[11] Dolby observes that the opportunity for inclusion within the safe harbour provides these incentives: a pool which provides this transparency would enjoy a safe harbour under competition law; which would also provide an incentive for patent owners to offer their patents for license through that pool.

Dolby notes that the European Commission's now-withdrawn proposal for SEP Regulation included mandatory disclosure of patent information and essentiality checks.[12] During the review of the legislation, the Parliament adopted an amendment which would allow a patent owner to make use of essentiality checks performed by a patent pool to discharge its obligations to disclose this information.[13] Although the Commission has since withdrawn the proposal, this reflects the recognition that a patent owner could effectively discharge its transparency obligations though participation in a patent pool.

Dolby raises that, earlier this year, WIPO began expanding its PATENTSCOPE database to link to information on verified standard essential patents provided by patent pools.[14] This approach is similar to the IPO proposal to create a central database of essential patents, and illustrates that information from patent pools can be linked to such databases.

Dolby implores the UK Government to take these additions to the safe habour requirements into account when considering future regulatory efforts. This approach is market driven and preferable to regulation. There should be no need for further regulatory measures to address transparency regarding essentiality in markets where pools provide this information.

The Safe Harbour Must Be Flexible Enough to Accommodate Differing Approaches to Providing Transparency

As Dolby noted in its prior submissions to the European Commission, what constitutes adequate disclosure may differ considerably from pool to pool and party to party. It is important not only that the safe harbour provides adequate clarity to pools to guide their practices, but also that that the application of the safe harbour allows pools to retain the

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[11] *Id*. at Q.18.
[12] European Commission, Proposal for a regulation of the European Parliament and of the Council on standard essential patents and amending Regulation (EU) 2017/1001 at Art. 8(b); 29(4) (23 April 2023).
[13] European Parliament legislative resolution of 28 February 2024 on the proposal for a regulation of the European Parliament and of the Council on standard essential patents and amending Regulation (EU) 2017/1001 at Art. 8(b); 29(4); 29(4)(a), https://www.europarl.europa.eu/doceo/document/TA-9-2024-0100_EN.html
[14] World Intellectual Property Organization, Bringing Greater Transparency to Standard Essential Patents: New Verified SEP Data Launches in PATENTSCOPE (27 January 2026), https://www.wipo.int/en/web/patents/w/news/2026/bringing-greater-transparency-to-standard-essential-patents-new-verified-sep-data-launches-in-patentscope

flexibility to meet evolving market needs. In particular, the requirement in sections (b) and (c) that information is "disclosed in an effective manner" provide necessary flexibility to industry to adopt the best techniques for achieving the stated goals without mandating specific methods of disclosure. The examples provided in footnotes 225 and 226 to the safe harbour should be construed as only one example of how to provide effective disclosure.[15] When finalizing the Guidelines, the CMA should not amend this text to be more prescriptive than it currently is drafted.

The Safe Harbour Requirements Must be Proportionate

The CMA Consultation Document explains that "disclosure … should be made in an effective, reasonable and proportionate manner."[16] The proposed footnotes to the safe harbour similarly indicate that "disclosures should be updated at reasonable intervals…." Dolby stresses that the interpretation of these requirements in practice be "reasonable" and "proportionate." When finalizing the Guidelines, the CMA should not amend this text to place unreasonable or disproportionate burdens upon technology pools.

The Guidelines Should Not Imply that Technology Pools Are Bound By Patent Owners' Contractual FRAND Commitments to Standards Development Organizations

Dolby notes that the proposed CMA amendments do not add the language "by the pool" to Section (f) in the manner that the European Commission amendments have done.[17] Since 2014, the safe harbour requires that "the pooled technologies are licensed out to all potential licenses on FRAND terms."[18] In 2026, The European Commission amended this to read "the pooled technologies are licensed out **by the pool** to all potential licensees on fair, reasonable, and non-discriminatory terms."[19]

Dolby supports the CMA decision to not add this language. The language "by the pool" does not add anything to the existing safe harbour obligation and could be misconstrued to suggest that the pool is bound by a contractual FRAND commitment. As Dolby raised in its 23 April 2025 submission to the European Commission, the consideration of whether a technology pool offers terms are within a fair range should not be confused with the competition or contractual analysis of a patentee's individual FRAND commitment to a standard-setting organization. The pool administrators which offer the technology pool license are not subject to the FRAND commitment made to the standard-setting

[15] CMA Draft Guidelines Art. 11.116 n. 225-26.
[16] CMA Consultation document at ¶ 2.17.
[17] Compare European Commission Guidelines ¶ 286(f) with CMA Draft Guidelines ¶ 11.116(f).
[18] Guidelines on the application of Article 101 of the Treaty on the Functioning of the European Union to technology transfer agreements at ¶ 261(e) (28 March 2014), https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014XC0328(01)
[19] European Commission Guidelines ¶ 286(f) (emphasis added).

organization.[20] The proposed language "by the pool" might be interpreted to suggest that the pool is bound by patent owners' FRAND commitments to SSOs – which it is not - and Dolby therefore suggests that this language not be included.

Response to Question 5.3: Do you have any comments on the CMA's proposal not to provide specific guidance on LNGs?

Dolby believes the CMA is correct to ascertain that "we do not consider it appropriate to include specific guidance on LNGs."[21] Dolby agrees fully with the rationale provided:

> It appears to the CMA that LNGs have emerged relatively recently as an issue in technology transfer licensing and the CMA has no institutional experience in assessing LNG arrangements. In addition, to the best of the CMA's knowledge, there are no LNGs currently operating in the UK.[22]

Dolby supports the proposed approach to "assess LNGs arrangements on a case-by-case basis, taking into account the specific factual and economic circumstances of the arrangement in question."[23]

In its submissions to the European Commission, Dolby has counselled against including guidance on LNGs in the proposed revised Technology Transfer Guidelines. There was much more market experience in the case of technology pools when they were included in the Guidelines. Although the first comfort letters to MPEG-2 and DVD were issued in the late 1990s, the first guidelines for patent pools was not issued until 2004, after years of experience with operating patent pools and case-by-case assessment under competition law.[24] In contrast, there is no such market experience with LNGs.

In addition, the United States Department of Justice had itself issued a number of business review letters and guidance on patent pools by the time that the Guidelines were issued – and the Guidelines were broadly compatible with the American guidance. In contrast to its views on pools, the United States has a differing view than the European Commission on LNGs. The United States Trade Representative's recently issued Special 301 Report raises

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[20] This view is consistent with the majority decisions of Lord Justice Phillips and Lady Justice Whipple in the Court of Appeal decision in *Tesla v. Interdigital*. Tesla, Inc. & Tesla Motors Limited v IDAC Holdings, Inc., InterDigital Patent Holdings, Inc., InterDigital Holdings, Inc. & Avanci, LLC, [2025] EWCA Civ 193, Court of Appeal (Civil Division) (6 March 2025).

[21] CMA Consultation document at ¶ 2.20.

[22] *Id*.

[23] *Id*.

[24] *See* Notification of a licensing system Case No IV/C-3/36.849 MPEG-2 Licensing Programme (98/C 229/06), available at https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:1998:229:0019:0020:EN:PDF ; Commission approves a patent licensing programme to implement the DVD standard, 9 October 2000, available at https://ec.europa.eu/commission/presscorner/detail/en/ip_00_1135 .

concerns about the practice.[25] Further, United States Department of Justice Antitrust Division leadership has recently highlighted the risk that such arrangements would constitute buyers' cartels under United States law.[26] This lack of a uniform view counsels against issuing guidance.

In addition, Dolby believes that the European Commission's analytical approach to LNGs overstates their procompetitive benefits and understates their anticompetitive risks. Dolby has provided a detailed comment on this analytical approach in its 23 October comment to the European Commission.[27]

Dolby therefore supports the CMA decision not to offer guidance on LNGs, but to instead analyze them on a case-by-case basis.

Conclusion

Dolby supports the approach taken by the CMA in its revision to the Guidelines technology pools section safe harbour as a market-led approach to promoting transparency. It recommends that the UKIPO and other stakeholders considering regulatory measures take note of the transparency provided by pools that comply with these guidelines. Dolby further supports the CMA's decision to not include guidance on LNGs, but to instead analyze them on a case-by-case basis.

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[25] Office of the United States Trade Representative, 2026 Special 301 Report at 40, https://ustr.gov/sites/default/files/files/Press/Releases/2026/2026%20Special%20301%20Report.pdf

> A final concerning development is the emergence and/or sanctioning of "Licensing Negotiation Groups" (LNGs) that could harm competition by enabling technology purchasers, under certain circumstances, to act jointly to lock in potentially subcompetitive or sub-FRAND prices, or agree to engage in "holdout."

[26] Deputy Assistant Attorney General Dina Kallay, "Clearing the Runway for Unfettered Competition in the Airline Industry" Remarks at the 2025 Chatham House Competition Policy Conference on Competition in the Airline Industry (Nov. 20, 2025), https://www.justice.gov/opa/speech/deputy-assistant-attorney-general-dina-kallay-delivers-virtual-remarks-2025-chatham

> [T]he European Commission's Directorate-General for Competition's recent comfort letter to the EU automotive sector regarding Automotive Licensing Negotiation Group seems to have permitted collusive licensing negotiation groups, which constitute illegal buyers' cartels under U.S. antitrust law.

[27] Contribution by Dolby Laboratories, Inc to Public consultation on the draft revised Technology Transfer Block Exemption Regulation and Technology Transfer Guidelines (23 October 2025), https://competition-policy.ec.europa.eu/document/download/3fbb7ffc-b589-4a34-a7c1-9e68b08ddb15_en?filename=2025_draft_revised_TTBER_contributions.zip