

Case No: 1593/6/12/23

# **IN THE COMPETITION APPEAL TRIBUNAL**

BETWEEN:

(1) AIRWAVE SOLUTIONS LIMITED (2) MOTOROLA SOLUTIONS UK LIMITED (3) MOTOROLA SOLUTIONS, INC.

**Applicants** 

- v -

#### COMPETITION AND MARKETS AUTHORITY

Respondent

- and -

#### SECRETARY OF STATE FOR THE HOME DEPARTMENT

<u>Intervener</u>

## **CONSENT ORDER**

**UPON** the Respondent ("CMA") having made The Mobile Radio Network Services Market Investigation Order 2023 ("**Charge Control Order**") in exercise of its powers under the Enterprise Act 2002, pursuant to the decisions contained in the *Mobile radio network services: Final report* of 5 April 2023 ("**Report**") and imposing a charge control remedy on certain pricing arrangements entered into by Airwave Solutions Limited and Motorola Solutions, Inc.

**AND UPON** the Charge Control Order having a commencement date of 1 August 2023 (the "Commencement Date")

**AND UPON** the parties agreeing that the effects of the Charge Control Order are suspended until the Applicants' ("**Motorola**") application in these proceedings is determined by the Competition Appeal Tribunal (the "**Tribunal**") (the "**Charge Control Suspension**")

**AND UPON** the parties agreeing that the Charge Control Suspension is conditional on Motorola's undertaking to place the Intervener ("Home Office") in the same position as it

would have been in from the Commencement Date of the Charge Control Order should the Tribunal reject Motorola's application in Case No. 1593/6/12/13 such that the decision in the

Report to implement the charge control is not quashed and/or remitted to the CMA

AND HAVING REGARD TO rule 106 of the Competition Appeal Tribunal Rules 2015

IT IS ORDERED BY CONSENT THAT:

1. The Charge Control Order is suspended from the Commencement Date pending the

judgment of the Tribunal in these proceedings.

2. If the Report is upheld in whole or part such that the decision in the Report to

introduce a charge control stands, any additional suspension, pending further appeal,

will require a separate application as part of any application for permission to appeal.

3. This Order becomes effective only upon receipt by the Tribunal of signed

undertakings from Motorola Solutions, Inc. and Airwave Solutions Limited in the

terms of the Schedule to this Order and shall remain in effect in accordance with the

terms of those undertakings.

4. Costs in the case.

**Bridget Lucas KC** 

Chair of the Competition Appeal Tribunal

Made: 3 August 2023

Drawn: 3 August 2023

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#### **SCHEDULE**

## **Undertakings**

[Name of the Applicant] hereby gives undertakings that, should the Tribunal reject Motorola's application in Case No. 1593/6/12/23, such that the decision in the Report to introduce a charge control stands, it will fulfil the following obligations, terms and conditions:

- (a) In line with Paragraph 4 of Schedule 1 of the Charge Control Order, Airwave Solutions Limited and Motorola Solutions, Inc. would be required to set charges for Core Services and Police Menu Services for the rest of 2023 (i.e. after the end of the Charge Control Suspension) such that they would expect the revenue received from the provision of those services from the Commencement Date through to the end of 2023 to be equal to the maximum level of revenue that Airwave Solutions Limited and Motorola Solutions, Inc. are allowed to receive in 2023, RevMax(CPM)<sub>2023(rem)</sub>, as determined by paragraph 2 of Schedule 1 of the Charge Control Order.
- (b) By way of illustration, point (a) above could be achieved in practice by either (i) reflecting the absence of a charge reduction during the Charge Control Suspension in the level of charges applied in 2023 after the end of the suspension period, or (ii) by addressing the absence of a charge reduction during the Charge Control Suspension separately through the provision of appropriate charge rebates or credits before the end of 2023.
- (c) In addition to the above, [Name of the Applicant] will, use its best endeavours to ensure by means of the steps taken pursuant to paragraph (a) above that the Home Office and users of Core Services and Police Menu Services pay no more than they would have absent the Charge Control Suspension. Further, an interest payment will be made to the Home Office and users of Core Services and Police Menu Services (in appropriate proportions) in respect of the charge reduction that was not made during the Charge Control Suspension at the prevailing Bank of England Base Rate. [Name of the Applicant] may pay such sums by the means referred to in paragraph (b) above.

(d) [Name of the Applicant] will fulfil these obligations in accordance with the

terms of the Charge Control Order when the Charge Control Suspension ends.

(e) In the event that [Name of the Applicant] fails to fulfil these obligations, the

CMA may enforce the Charge Control Order, including for breach of the

Charge Control Order, without prejudice to its right to bring proceedings for

contempt of court.

(f) [Name of the Applicant] and any economic successors or assigns are bound

by these undertakings until all the obligations set out above have been

fulfilled.

(g) The Applicants are jointly and severally liable under these undertakings.

(h) If [Name of the Applicant] is unable to fulfil any of the obligations outlined

in these undertakings, it will promptly and in any event within 7 days notify

the Tribunal and the CMA in writing of the reason for the inability to do so

and propose an alternative and equivalent course of action to fulfil the

obligations.

These undertakings are signed and executed on behalf of [Name of the Applicant] by [Name

of the person signing], [Job title] at [Organisation]. Evidence of signing authority is

provided as Annex 1 to these undertakings.

I understand the undertaking that I have given, and that if [Name of the Applicant] breaks

any of the obligations to the Tribunal that [Name of the Applicant] may be held in contempt

of court and punished by a fine, imprisonment, confiscation of assets or other punishment

under the law. I have sought legal advice in order to fully understand the implications of this

undertaking.

Signed on behalf of [Name of the Applicant]:

[signature]

[Name]

[Job title]

[Organisation]

Date:

[date] 2023

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