

IN THE COMPETITION APPEAL TRIBUNAL

B E T W E E N :

Case No.: 1624/7/7/23

JUSTIN GUTMANN

Class Representative

-AND-

(1) VODAFONE LIMITED
(2) VODAFONE GROUP PLC

Defendants

Case No.: 1625/7/7/23

JUSTIN GUTMANN

Class Representative

-AND-

(1) EE LIMITED
(2) BT GROUP PLC

Defendants

Case No.: 1626/7/7/23

JUSTIN GUTMANN

Class Representative

-AND-

(1) HUTCHISON 3G UK LIMITED

Defendant

Case No.: 1627/7/7/23

JUSTIN GUTMANN

Class Representative

-AND-

(1) TELEFONICA UK LIMITED

Defendant

ORDER (LIST OF ISSUES FOR DISCLOSURE)

UPON the Order of the Chair concerning trial structure and disclosure in the above-referenced proceedings, made on 1 July 2026 (the "**Trial Structure and Disclosure Order**")

AND UPON the Chair having considered the written submissions for the Class Representative and for the Defendants jointly, each dated 6 November 2026, pursuant to paragraph 12(a) of the Trial Structure and Disclosure Order (as varied by the consent order dated 26 October 2026) regarding the remaining matters in dispute in respect of the list of issues for disclosure ("**LOIFD**"), and the letter from Ashurst Perkins Coie UK LLP on behalf of Telefonica UK Limited, EE Limited and BT Group PLC, also dated 6 November 2026, concerning Issue 2

AND UPON the Chair having determined those disputes on the papers and the Tribunal having communicated those determinations by letter dated 9 November 2026

IT IS ORDERED THAT:

1. The LOIFD in the above-referenced proceedings shall be in the form set out in the Annex to this Order.

2. Costs in the case.

The Honourable Lord Richardson
Chair of the Competition Appeal Tribunal

Made: 18 November 2026
Drawn: 18 November 2026

CASE NOS. 1624-1627/7/7/23 LIST OF ISSUES FOR DISCLOSURE (CONSOLIDATED)

1. This Draft List of Issues for Disclosure ("**LOIFD**") is produced pursuant to paragraph 7 of the Order made on 1 July 2026 and serves to identify issues for disclosure from the MNOs, ahead of the production of disclosure requests in due course. Issues that do not necessitate disclosure based on the pleadings as of the date of this document have not been included, without prejudice to the identification of further issues for disclosure subsequent to any amendments to pleadings.

2. Where already known to the CR, this document further serves to indicate the categories of documents sought by the CR in relation to each issue, based on the limited information currently available to the CR prior to the provision by the Defendants of a Disclosure Report and potentially also an Electronic Documents Questionnaire. This is without prejudice to the CR's ability to seek additional categories of documents in relation to each issue as part of his subsequent disclosure requests and as part of his position at the CMC referred to in paragraph 16 of the Order. This draft LOIFD seeks to identify the CR's proposed likely disclosure requests. The CR's actual requests will be produced after the finalisation of this document and after provision by the Defendants of a Disclosure Report (and potentially also an Electronic Documents Questionnaire). It is the Defendants' position that, as the indicative categories of documents identified within this LOIFD are not intended to represent the CR's actual requests for disclosure, and are intended to be non-exhaustive and illustrative, it is not necessary for them to be agreed between the parties. Nothing in this document should be taken as an acceptance or confirmation by the Defendants that any specific documents exist. The Defendants fully reserve their position with respect to the same. Any comments provided by the Defendants below are to assist the CR in the formulation of his actual disclosure requests in due course, and without prejudice to their ability to comment upon (and, if necessary, oppose) the same once produced. In particular, any comments (or lack thereof) by the Defendants below should not be taken to accept that the provision of documents in respect of any given category or indicative issue is agreed in principle (except where explicitly specified), including in view of the need for considerations of proportionality to be addressed.

3. This LOIFD seeks to avoid duplication across its different sections. The fact that a particular issue is identified under a particular heading does not imply that the disclosure to be provided under that issue is irrelevant to other aspects of the case. By way of example only, many issues for disclosure in the section on '*General Factual Background'* are also relevant to '*Abuse*'. Occasionally a topic (for example, transparency) features in more than one "issue" because it is relevant to different aspects of the case; where this arises, the disclosure requests under each "issue" may be formulated slightly differently notwithstanding the fact that there is some overlap between the requests and/or the potential document output when the requests are actioned by the MNOs. This does not mean that the CR will seek or require production of the same document more than once: the MNOs can use well-established de-duplication tools to avoid production of the same document twice.

4. References to the Re-Amended Collective Proceedings Claim Form ("**ACPCF**") refer to the ACPCF in each of the Four Related Proceedings. Definitions from the pleadings are adopted unless expressly indicated otherwise. Further, the use of language in the CR's pleadings for the purpose of identifying the issues covered in this LOIFD does not amount to an acceptance by the Defendants of the CR's characterisation of the matters in question, which remains a matter for determination at trial. For the avoidance of doubt, agreement as to the framing of an issue for disclosure does not constitute agreement that it will be relevant at trial and/or should be included within the list of issues for trial.

5. The parties may revisit this LOIFD if appropriate in light of developments in the proceedings, in particular including (but not limited to) subsequent to any amendments to pleadings.

6. References to "documents" throughout this LOIFD are to documents in any format, including but not limited to spreadsheets (e.g. Excel), PDFs, word-processed documents (e.g. Word), presentations (e.g. PowerPoint), datasets, and databases, together with any associated metadata and native files.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
GENERAL FACTUAL BACKGROUND			
1.	**Terms of CHA Contracts (direct)** What are the terms of CHA Contracts entered into directly between the Relevant Customer and the MNO? Have those terms changed over time? Are different terms applied for particular categories of	- A representative sample of each form of CHA Contract offered to customers, from time to time over the Relevant Period, including CHA Contracts entered into between the customer and any MNO Counterparty. [Defendants: Pending receipt of the CR's formal disclosure request in due course, the Defendants are content in principle with this proposed category subject to possible discussions about	- ACPCF §§2–4, 19–20; - VODAFONE-Re-Amended Def §§17–19; - THREE-Re-Amended Def §§18–20; - BT-EE-Amended Def §§9–10; - O2-Amended Def §§16, 18–19;

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	customer (being those specific categories or segments identified by the MNOs themselves, such as age ranges or vulnerability status)? *Temporal scope: from 1 October 2013 to date*	proportionate sampling in due course and clarification on the defined term "MNO Counterparty".] [The CR: The CR notes the Defendants' comments. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- VODAFONE-Rep §12; - THREE-Rep §13; - EE-Rep §§4–5; - O2-Rep §7(1), (6); - Davis 1 §§43(c), 44–46.
2.	**Terms of CHA Contracts (indirect)** What are the terms of contracts comprising or related to "Indirect CHA Contracts", including standard terms and variations to those terms for particular categories of customer? The term "Indirect CHA Contracts" is used to refer to a contract or contracts (either individually or in combination as part of a wider transaction) entered into between two or more of the customer, the MNO and an indirect reseller, involving (i) the supply of a Handset and Airtime Services to the customer and (ii) payments to the MNO in relation to such supply, whether or not the Handset is supplied directly by the MNO or pursuant to a separate contract with the indirect reseller. For the avoidance of doubt, this is to include: - The terms of any contract between the MNO and the customer in relation to the supply of the Handset and/or Airtime Services pursuant to an Indirect CHA Contract; - The terms of any contract between the customer and the indirect reseller (and to which the MNO may also be a party) forming part of an Indirect CHA Contract, pursuant to which the indirect reseller provided the Handset to the customer. Further, any other documents recording whether the MNO otherwise determines or influences the terms of the aforementioned contract between the customer and the indirect reseller; - The terms of any contract (including any framework agreement) between the MNO and	- CHA Contracts (indirect) to include: o Any contract between the customer and the indirect reseller forming part of an Indirect CHA Contract. o Any contract (including any framework agreement) between the MNO and the indirect reseller forming part of an Indirect CHA Contract, including (i) any such contract to which the customer is also party and/or (ii) any further documents evidencing the arrangement between the indirect reseller and the MNO and/or the basis on which the indirect reseller is remunerated for any supply of the Handset to the customer by the indirect reseller. [Defendants: The Defendants have disputed the inclusion of this issue on the basis that such contracts plainly do not fall within the scope of the claim as currently pleaded. Accordingly, they do not consider it necessary to comment further upon the proposed categories of disclosure relating to this issue at this stage.] [The CR: The CR maintains that Issue 2 clearly arises on the pleadings for the reasons set out in his submissions to the Tribunal. Accordingly, the CR maintains that the Defendants should provide comments on the categories of disclosure relating to Issue 2.]	- ACPCF §§15(3), 17(3); - O2-Def §§16, 20–23; - BT-EE-Def §20(e); - VODAFONE-Def §13; - THREE-Def §14; - O2-Rep §7(4); - EE-Rep §9; - VODAFONE-Rep §10(3)-(4); - THREE-Rep §11(3)-(4); - Davis 1 §§40–43.

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	the indirect reseller forming part of an Indirect CHA Contract, including (i) any such contract to which the customer is also party; (ii) any further documents evidencing the arrangement between the indirect reseller and the MNO; and (iii) any document recording whether the MNO receives any benefit in respect of the "*upfront fee*" imposed on the customer "*in some cases*" by the indirect reseller. *Temporal scope: from 1 October 2013 to date*		
3.	**Terms (including with respect to price and services offered) of SIM Only Contracts** - What are the terms, including prices, of SIM Only Contracts available to Relevant Customers? - What services do those contracts include? - How have those terms, including in relation to prices and services changed over time? *Temporal scope: from 1 October 2013 to date*	- A representative sample of each form of SIM Only Contract offered to customers, from time to time over the Relevant Period. [Defendants: Pending receipt of the CR's formal disclosure request in due course, the Defendants are content in principle with this proposed category subject to possible discussions about proportionate sampling in due course.] [The CR: The CR notes the Defendants' comments. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- ACPCF §16(3), 22, 53; - O2-Amended Def §§18(4), 25(7), 32(3)(b), 63(3)(c)(ii); - BT-EE-Amended Def §21(b), 52(b)-(c); - THREE-Re-Amended Def §§18(e), 24, 53(b); - VODAFONE-Re-Amended Def §§17(e), 23, 53(b); - O2-Rep §24(4)(b); - EE-Rep §25(3); - THREE-Rep §26; - VODAFONE-Rep §26.
4.	**Split Contracts** - What types of Split Contracts were introduced by the MNOs? How are those contracts priced? - What are the Terms of these contracts, including any changes over time? - What is the volume of customers entering into Split Contracts since their introduction? *Temporal scope: from April 2013 in respect of O2; from October 2021 in respect of EE; from June 2021 in respect of Vodafone; and from January 2023 in respect of Three.*	- A representative sample of each form of Split Contract offered to customers, from time to time over the Relevant Period. - Billing sales data both pre and post the Minimum Term (including excels, PDFs and any other document types in which data sets are recorded) - Internal documents as to rationale of the commercial terms and pricing of Split Contracts (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded). [Defendants: Pending receipt of the CR's formal disclosure request in due course, the Defendants are content in principle with the first proposed category subject to possible discussions about proportionate sampling. As to the second proposed category, the Defendants are content in principle to make enquiries as to the datasets available in due course and the scope and proportionality of the requested datasets can then be considered in the light of what is available. The Defendants could not accept the third proposed category of documents as drafted. For	- ACPCF §§16(2), 17(2)–(4); - O2-Amended Def §§18(3), 19(2), 25(6); - BT-EE-Amended Def §§22, 26; - VODAFONE-Re-Amended Def §15; - THREE-Amended Def §16.

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		example, the Defendants note for example the possible breadth of a request for documents "*as to*" the rationale for any terms of Split Contracts (as distinct from e.g. the request in parenthesis for documents which record internal strategic analysis of the same, which is more specific and narrower in ambit). Furthermore, it may ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR notes the Defendants' comments. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
5.	Changes to the payment structures made by the Defendants under CHA Contracts, and the commercial rationale for each MNO: - To adopt the payment structures in place for CHA Contracts prior to the date of the relevant change, i.e., in respect of O2, April 2013; and - To vary such payment structures thereafter? *Temporal scope: from 1 January 2013 to date*	- Pricing-policy and product-proposition approval papers for CHA pricing, and in particular for pricing after expiry of the Minimum Term. - Strategy documents from each MNO explaining the rationale and timing for each policy, including board minutes and other internal documents in which internal strategic analyses are recorded (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded), together with external communications and marketing materials relating to that change. - Board and pricing-committee decisions adopting, amending or withdrawing the relevant policies, or considering actual or proposed changes by other MNOs and possible responses to such changes (including in particular the changes made by O2 from April 2013 onwards and the changes made by other MNOs in response to regulatory concerns). - To the extent not provided under paragraph 3 of the order made on 1 July 2026, submissions to and correspondence with Ofcom and the CMA on out-of-contract pricing, responses to the 2018–2020 reviews and records of implementation of commitments. - Documents from each MNO concerning the rationale for any change it introduced, including internal management, strategy and approval materials. Documents from other MNOs concerning their response to any such change, including internal assessments, decision-making and strategy materials (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded), and any resulting customer-facing communications or marketing materials. [Defendants: The Defendants could not accept these proposed categories as drafted. For example, the final proposed category would capture any document "*concerning*" the rationale for any change in payment structure; and any document "*concerning*" how one MNO may respond to changes made by any other. As a result, the practical effect of these proposed categories viewed as a whole is to define a category of documents by reference to whether their content "*concerns*" a particular topic. The Defendants have concerns about the breadth of such a request. In any event, that sort of request may ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course. The	- ACPCF §§17, 33-34; - VODAFONE-Def §§31, 41(e); - THREE-Def §§31-32, 42(e); - O2-Def §§19(2)-(4), 24, 53(1), 54(4)-(5), 55(2)(c)(v); - BT-EE-Def §§22(b), 26, 31.

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		Defendants would also expect the requests to be focused upon those changes which are identified in the cross-referenced pleadings.] [The CR: The CR notes the Defendants' comments. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
MARKET DEFINITION			
6.	*[INTENTIONALLY LEFT BLANK]*	*[INTENTIONALLY LEFT BLANK]*	*[INTENTIONALLY LEFT BLANK]*
7.	**Products/Services in or pursuant to CHA Contracts** What are the products/services offered by the MNOs in or pursuant to CHA Contracts: - Handsets; - Airtime services; - Other. *Temporal scope: from 1 October 2013 to date*	- Documents identifying and describing each product or tariff, including customer-segmentation materials, product codes or other identifiers capable of being matched to billing and sales data, and the applicable standard terms, contracts and product specifications. - Documents and datasets showing the composition and pricing of each product or tariff, including any bundled handset, goods, services, warranties, insurance or other add-ons, and, for Split Contracts, the allocation of charges between the handset and airtime elements (including Excel files, PDFs and any other document types in which datasets are recorded). - Documents and datasets showing the goods, services and benefits provided to customers after expiry of the Minimum Term, including any changes to the contractual package, post-expiry benefits and Auto-Save arrangements (including Excel files, PDFs and any other document types in which datasets are recorded). - Documents concerning consumer whole-life costing, reputation or other sources of (possibly asymmetric) demand complementarity between Airtime Services and Handset, including whether customers take into account the price payable after the Minimum Term, any cross-price relationship or elasticities between Handsets and Airtime Services, and any reputational effect of raising out-of-term prices. [Defendants: The Defendants could not accept these proposed categories as drafted. They are so broadly drafted that they are liable to capture irrelevant and/or disproportionate numbers of documents. For example, the first proposed category would capture any document describing any product offered under a CHA Contract (in any context and for any purpose). The Defendants are content in principle to make enquiries as to what datasets may exist in due course, and the scope and proportionality of the same can then be considered in the light of what is available.]	- ACPCF §§2–5, 13, 16, 19–20, 25, 56, 81; - VODAFONE-Def §§7(a), 17(b)–(f), 19, 34(a), 49, 56–57, 59, 74; - THREE-Def §§7(a), 16, 18(a)–(f), 20, 35(a), 49, 56, 59, 74; - O2-Def §§12, 18(1)–(5), 19(2), 19(4), 24(3), 25(4)(c), 25(4)(e)(i), 25(6)(a), 28(2), 60(12); - BT-EE-Def §§6(c), 6(f), 9(a), 9(b)(ii)-(iv), 10(a), 11(b), 21(b), 48(a)(i), 52(c), 55(a), (c), 56(c), 58, 62(a); - VODAFONE-Rep §§6(1), 6(2)(a), (c), 6(3), 12(2)(a)–(b), 12(2)(d)–(e), 12(3), 12(6), 13(2)(b); - THREE-Rep §§6(1), 6(2)–(3), 13(2)(a)-(d), 13(3), 13(6), 14(2)(b); - O2-Rep §§7(1), 7(4)(a)–(e), 7(5), 7(7)(b), 10(1), 10(3), 10(4); - EE-Rep §§3(3)(d), 3(6)(b), 3(6)(c), 4(1)(a)–(d), 4(2)(c), 4(2)(f)–(g), 5(1)(c), 15(1). - Davis 1: o §7.a.iii-v, ix, fn 14; o §8, §9.a;

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		[The CR: The Defendants' comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	○ §17.a and Section V.A.1 (p. 74); Section IV.B (p. 42). - Davis 2 (Second Expert Report, 30 January 2025): ○ Section III "Definition of Handset" §44-61; §18.
8.	**Products/Services on wider markets** What categories of products and services are supplied by the MNOs on the Mobile Retail Market (to include CHA Contracts, SIM-only Contracts, Split Contracts, pre-pay and post-pay contracts, direct and indirect sales channels, consumer and business customers)? *Temporal scope: from 1 October 2013 to date*	- Documents concerning the development and management of the product portfolio, including tariff and pricing strategy and the launch, modification or withdrawal of products. - Documents concerning sales and distribution strategy, including the use of different sales channels and the targeting or segmentation of customers (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded). - Documents comparing the products or services supplied across different contract types, sales channels and technologies. [Defendants: The Defendants could not accept these proposed categories as drafted. The categories defined above are tantamount to seeking incredibly wide-ranging disclosure of effectively any document "*concerning*" the development, management and sale of any product that might be described as falling within the Mobile Retail Market. The Defendants are concerned at the breadth of these sorts of requests – they would not be necessary or proportionate.] [The CR: The Defendants' comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- ACPCF §§15-16, 38; - VODAFONE-Def §35; - THREE-Def §36; - O2-Def §48; - BT-EE-Def §36; - Davis 1 §161.
9.	**Potentially substitutable products** What are the potentially substitutable products to the focal product in each ILM, and what are the prices of those substitutable products? For example (but not limited to): - Comparable SIM-only products; - Split Contracts (when offered); - Pre-Paid options; and - Any additional goods and services. *Temporal scope: from 1 October 2013 to date*	- Documents showing demand and supply substitution (for both product and geographic market definition). - Documents on SIM-only and Split Contract product and tariff. - Documents on product portfolio showing what was bundled with CHA tariffs. - To the extent not provided under paragraph 3 of the order made on 1 July 2026, the datasets underlying Ofcom's analyses of CHA and SIM Only prices. - Diversion analyses (sales lost from comparator products on a price rise). - Documents concerning price elasticity of market and firm demand, including documents that consider substitution analysis and/or the profitability of increasing prices of potential comparator groups: CHA Contracts before/after the Minimum Term, Split Contracts and SIM Only Contracts.	- ACPCF §§4–5, 16, 19, 53–54, 81; - O2-Def §§19(4), 24(3), 25(4)(e)(i), 29(2), 32(3)(b), 47, 63(3)(c)(ii); - BT-EE-Def §§11, 21(b), 35(e), 52(b)–(c), 63; - VODAFONE-Def §§21(d)(1), 50(b)–(c), 53(b), 61(b); - THREE-Def §§22(d)(1), 50(c), 53(b), 61(b); - O2-Rep §§10(3)(d), 24(4)(b); - EE-Rep §§4(1)(b), 25(3); - VODAFONE-Rep §26; - THREE-Rep §26;

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		[Defendants: The Defendants could not accept these proposed categories as drafted. Many of these proposed categories are currently defined in incredibly broad and vague terms (e.g. documents "*showing … substitution"* or documents "*on… product and tariff"*). The request for documents "*on SIM-only and Split Contract product and tariff"* also appears duplicative of the proposed categories under Issues 3 and 4 (albeit slightly different drafting has been adopted, for reasons which are unclear). Further, many of these proposed categories may ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- Davis 1 §235, Tables 3 (p. 77) and 4 (p. 151).
10	**Market Structure** What is the structure of the Mobile Retail Market including the level of concentration, the individual and collective shares of the MNOs, the stability or asymmetry of those shares, and the extent of any competitive constraint, including from MVNOs, MNO-owned or affiliated MVNOs/JVs and indirect resellers? *Temporal scope: from 1 October 2013 to date*	- Market-share data (including excels, PDFs and any other document types in which data sets are recorded), and - Internal analyses of market stability (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded). - Documents on MVNO/JV ownership and governance with any MNO. - Documents assessing MVNO entry and expansion. - Documents demonstrating the geographic scope of competition, including EU/European, regional, national and local analyses where available. - To the extent not provided under paragraph 3 of the order made on 1 July 2026, market studies/submissions provided to Ofcom/CMA concerning the scope of retail mobile telecommunications services - Documents considering whether fixed-line services, OTT communication services, MVNOs and/or independent resellers are substitutes for, or constraints on, the Defendants' retail mobile telecommunications services. [Defendants: The Defendants could not accept these proposed categories as drafted. Many of these proposed categories are defined in incredibly broad terms and appear to be duplicative of one another. For example, see the breadth of the request for documents "*on MVNO/JV ownership and governance with any MNO"* (which on its face appears to be a request for disclosure of any document in any way relevant to MVNO/JV ownership). See, also, the request for internal analysis of market stability which is likely to duplicate the ground covered by the requests for	- ACPCF §§2, 15, 44(1), 45(2)(a)-(c), 81; - VODAFONE-Re-Amended Def §§13, 41(a), 44(a)-(c), 74; - THREE-Re-Amended Def §§14, 42(a), 45(a)-(c), 74; - O2-Amended Def §§6(2)(a), 54(1), 55(2)(c)(ii)-(iv); - BT-EE-Amended Def §§20, 42(a), 43(e); - VODAFONE-Rep §10; - THREE-Rep §11; - EE-Rep §9; - O2-Rep §4(2); - Davis 1 §§196-200, 204, 229(b)(ii).

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		documents on market share and MNVO entry and expansion (as well as other requests under issues below for documents covering entry/expansion and market share). More generally, the drafting technique of describing categories of documents in terms of "*documents on"* a particular topic (here and below) is liable to capture irrelevant and/or disproportionate amounts of material. So defined, that drafting could serve to capture a broad array of documents making any reference, however fleeting, to a particular topic. The request for "*documents demonstrating"* the geographic scope of competition which is extremely broad and unspecific in its potential ambit. We also note that this appears to be duplicative of the category on geographic scope included in Issue 6 above (albeit that the drafting differs, for reasons which are unclear). Where datasets are requested, the Defendants are content in principle to make enquiries as to the datasets available in due course, and the scope and proportionality of the requested datasets can then be considered in the light of what is available. Many of these proposed categories may also ultimately require keyword searches - the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
11	**The nature and extent of competition, at the point of sale of a CHA Contract** What is the nature and extent of competition between the MNOs, and between the MNOs, MVNOs and indirect retailers, at the inception of CHA Contracts (point of sale)? *Temporal scope: from 1 October 2013 to date*	- Documents relating to "Competition for the Customer", including competitor monitoring and responses to competitor announcements, marketing campaigns and/or strategies. - Documents on point-of-sale, tariff launch and approval. - Documents on competitive benchmarking and customer acquisition marketing. - Documents on the introduction of Split Contracts. - Documents relating to below-cost sales of CHA Contracts. - Documents on the dimensions of competition (price, network quality, Handset, branding, switching). [Defendants: The Defendants could not accept these proposed categories as drafted. The Defendants repeat their concern at the drafting technique of referencing "*documents on"* and "*documents relating to"*. There appears to be duplication as between some of the categories requested under this Issue and other categories under other Issues (where slightly different drafting has been adopted for reasons which are unclear). Compare, for example, the request for "*documents relating to … competitor monitoring"* here with the requests under Issue 6.	- ACPCF §§17, 19; - BT-EE-Def §§6(a)–(b), 35(a)–(b), 42(a), 48(a)(i); - VODAFONE-Def §§7(b), 34(b)–(c), 52(c); - THREE-Def §§7(b), 13, 35(c), 52(c); - O2-Def §§19(3)(b), 52(2)(b), 54(4)(a), 60(1)–(8); - VODAFONE-Rep §7(2); - THREE-Rep §7(2); - O2-Rep §21(2); - EE-Rep §§3(2)(b), (d); - Davis 1 §235.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
		Furthermore, many of these categories may ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
12	**The nature and extent of competition, around the time the Minimum Term of a CHA Contract expires** What is the nature and extent of competition among MNOs, MVNOs and indirect retailers at, shortly before, and shortly after, expiry of the Minimum Term? *Temporal scope: from 1 October 2013 to date*	- Documents on sales-channel. - Competitor monitoring, response, pricing and market analysis (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded). - Documents and data on customer acquisition, retention, switching and churn (including Excel files, PDFs and any other document types in which datasets are recorded). - Documents on end-of-contract, tariff notification, discount and save-activity (including Excel files, PDFs and any other document types in which datasets are recorded). - MVNO and retailer agreements and competitive assessments. [Defendants: The Defendants could not accept these proposed categories as drafted. Some of the categories are also vaguely expressed – such as "*Documents on sales-channel*". There appears to be duplication between "*competitor monitoring, response, pricing and market analysis*" under this Issue and the first proposed category under Issue 11 above (although the CR has used slightly different drafting, for reasons which are unclear). "*MVNO and retailer agreements and competitive assessments*" under this Issue appears duplicative of the various proposed categories under Issue 10 (although slightly different drafting has been used, for reasons which are unclear). Where datasets are requested, the Defendants are content in principle to make enquiries as to the datasets available in due course, and the scope and proportionality of the requested datasets can then be considered in the light of what is available. Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once	- ACPCF §§15-17, 19, 37-38, 42, 44(1)-(4), 45(1)(a), 45(2)(a)-(c), 45(3); - VODAFONE-Def §§13-15, 34(b)-(e), 39(b)-(d), 41(a)-(d); - THREE-Def §§14-16, 35(b)-(e), 40(b)-(d), 42(a)-(d); - BT-EE-Def §§6(a)-(d), 20(a)-(e), 22(b), 35(a)-(e), 42(a)-(d); - O2-Def §§18-20, 47, 52(2)(a)-(d), 53(1)(a)-(b), 53(2), 54(1)-(2), 54(4)(a); - Davis 1 §§17(b)-(c), 28, 34-42, 90-104, 186, 195-204, 216-219, 318-319.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
		(i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
13.	**Switching at/around expiry of Minimum Term**: - What are the switching rates and timing at/around expiry of the Minimum Term? - What are the reasons for switching / not switching: awareness, search costs, barriers. *Temporal scope: from 1 July 2015 to date*	- End-of-contract outcomes and out-of-term duration data. - Internal analyses of customer inertia and profitability (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded). - Documents on barriers to switching. - Documents regarding re-contracting and end-of-contract outcomes. - Internal analyses of the impact of Ofcom's Auto-Switch reform (2019) and the ECNs and ABTNs (2020) (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded). - Data sets containing switching data used to estimate customer tenure, switching and re-contracting outcomes, and the extent and timing of switching after the Minimum Term, including for any mitigation analysis. - Documents concerning why customers remained on CHA Contracts, Split Contracts, SIM Only Contracts, as well as any others beyond the Minimum Term, including research on switching behaviour, search costs, barriers to switching, consumer awareness of alternative contracts, perceived savings associated with remaining on their existing contract. - Documents discussing the reasons why consumers terminated their contract and started a new contract with the same or a different provider either before or after the expiry of the Minimum Term. [Defendants: The Defendants could not accept these proposed categories as drafted. Some of these categories are framed incredibly broadly. For example, the final category might capture any record of any communication from any individual customer as to the reason why they were switching contract or provider (as distinct from, for example, internal trend analyses). That request is also not properly anchored to CHA Contracts. There is duplication even within this Issue (e.g. "*End-of-contract outcomes*", "*documents regarding … end-of-contract outcomes*", "*Datasets containing switching data*"). There is also duplication between the categories proposed under this Issue and other Issues (see e.g. "*Documents on … end-of-contract*" under Issue 12). Where datasets are requested, the Defendants are content in principle to make enquiries as to the datasets available in due course, and the scope and proportionality of the requested datasets can then be considered in the light of what is available. Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.]	- ACPCF §§20, 22–23, 29(1); - VODAFONE-Def §§7(b), 34(d), 61(b); - THREE-Def §35(d), 61(b); - O2-Def §§24(1), 29(1), 29(2), 52(2)(d), 52(2)(e); - BT-EE-Def §§6(b), 35(b), 35(d), 35(e), 52(b), 56(a), 62(b); - VODAFONE-Rep §7(3)(b), 30(2)–(3); - THREE-Rep §7(3)(b), 30(2)–(3); - O2-Rep §§9(2), 13(2)–(4), 21(1), 21(3)(b); - EE-Rep §§3(2)(c)–(d), §3(3)(e); - Davis 1 §§262-270, 318-320.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
		[The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
14.	**Competitive constraints (generally)** What is the nature and extent of competitive constraints on price and non-price parameters in the Mobile Retail Market, including constraints from other MNOs, MVNOs, independent/indirect retailers? *Temporal scope: from 1 October 2013 to date*	- Documents on competitor market-share. - Documents on supply substitution. - Documents assessing the competitive constraint imposed by existing or potential competitors, including their reputation, incentives or ability to disrupt prevailing market conditions through new technology, services or business models. - Documents discussing the ability, incentives and competitive significance of firms that have entered, or may enter, the market and offer CHA Contracts, SIM Only Contracts, Split Contracts or other contract types. - Internal analyses of competitors (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded). - Documents concerning competitor restraints as between different categories of mobile telephony products, and mobile offerings of actual and potential competitors, including price, plan characteristics (minutes, texts, data allowances, add-ons, minimum terms and any upfront payments), network quality (speed, coverage and reliability), the Handsets offered and branding. [Defendants: The Defendants could not accept these categories as drafted. The Defendants repeat their concern about the drafting technique of referencing "*documents on"* (and "*documents discussing"* suffers from the same problem). There is a high degree of duplication between the categories proposed under this Issue and those under other Issues (but where there are differences in drafting, for reasons which are unclear). Compare, for example, "*Competitor monitoring, response, pricing and market analysis*" under Issue 12. Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in	- ACPCF §§44(1), 45(2)(c); - VODAFONE-Def §§41(a), 44(c); - THREE-Def §§42(a), 45(c); - O2-Def §§54(1), 55(2)(c)(iv); - BT-EE-Def §§42(a), 43(e); - Davis 1 §§196-205, 219, 220-222.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
		correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
15.	**Volume and Profile of customers:** - Entering CHA Contracts; - Who stay beyond the Minimum Term: numbers, duration, inertia, engagement, vulnerability; - Who switch at, or after, the Minimum Term. *Temporal scope: from 1 October 2013 to date*	- Data sets containing customer, contract and channel-level data on customers entering CHA Contracts, remaining beyond the Minimum Term and switching at or after the Minimum Term. - Documents on billing and payment-flow. - Customer switching, re-contracting and end-of-contract outcome data. - Customer research, surveys and segmentation analyses (including excel files, PDFs, and any other documentation within which the outcome of such research or surveys may be set out). - Documents on customer demographic characteristics and customer segments. [Defendants: The Defendants could not accept these categories as drafted. Some of these categories are expressed in very broad terms. For example, "*documents on billing and payment-flow"* is vague and might capture entirely irrelevant material. The request for "*customer research, surveys and segmentation analyses"* is broad and not tied to any specific customers or the issues. There is again a high degree of duplication between the categories proposed under this Issue and other Issues (but where the drafting differs slightly, for reasons which are unclear). Compare, for example, the categories under Issue 13 which are also concerned with customer behaviour. Where datasets are requested, the Defendants are content in principle to make enquiries as to the datasets available in due course, and the scope and proportionality of the requested datasets can then be considered in the light of what is available. Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- ACPCF §§15, 17(3) (in relation to O2 only), §§22–23, 29, 34(6), 51, 70, 84, 102; - O2-Def §§16–23, §§29(1)–(2), 32(3)(a); 39(4); 52(2)(d)–(e); - BT-EE-Def §6(b), §20(e), 30, 35(d)–(e); - VODAFONE-Def §§7(b), §13, 21(d), 34(d); - THREE-Def §§24, 35(d); - O2-Rep §§7(4)–(5), 8, 13(2)–(3), 16(6), 21(1), 33(6); - EE-Rep §§3(2)(d), 9, 37(6); - VODAFONE-Rep §§7(3)(b), 36(6); - THREE-Rep §§7(3)(b), 36(6); - Davis 1: Table 2 (p. 60); Section VII.C.1 (p. 161); §§263–264; §§144–145.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
16.	**Transparency before the ECN and ABTN regime** - What information did the MNOs provide to customers at the point of sale of CHA contracts? - What facts, warnings and information did the MNOs provide to customers at inception, during, and beyond the Minimum Term? - What information did the MNOs provide about the availability and price of comparable SIM Only tariffs? - What information did the MNOs provide to customers about the services for which the customer was paying through the continuing periodic charge after the Minimum Term? *Temporal scope: from 1 October 2013 to 14 February 2020*	- End-of-term customer communications in respect of CHA Contracts [pre-February 2020] (letters, emails, SMS, bill messaging) and disclosures (FAQs, pre-ECN/ABTN templates and implementation papers), with content, dates and coverage. - Internal policies and decisions on what customers were, or should be, told about the options available to them. [Defendants: Pending receipt of the CR's formal disclosure request in due course, the Defendants are content in principle with the first proposed category subject to possible discussions about proportionate sampling in due course. The Defendants are also content in principle with the second proposed category subject, again to discussions in due course about the parameters of any searches for the same.] [The CR: The Defendants' comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- ACPCF §50; - VODAFONE-Def §50(a)–(b); - O2-Def §§24, 61; - THREE-Def §50(a)–(b); - BT-EE-Def §49(b)–(d); - VODAFONE-Rep §§22(2), 25(2)(c)–(d), 36(1)–(2), (9); - THREE-Rep §25(2)(c)–(e), 36(1)–(2), (9); - O2-Rep §§7(7)(a), 23(5), §33; - EE-Rep §§3(4)(a), 24, §37; - Davis 1 §§271–275.
17.	**Transparency after the ECN and ABTN regime (from 15 February 2020 onwards):** - What was the content communicated to customers by each MNO in the ECNs and ABTNs; and - How customers responded to those notifications, including whether they switched, re-contracted, moved to a SIM-only tariff, or remained on their existing CHA Contracts beyond the Minimum Term. - How did the information provided to customers by each MNO (cf. Issue 16 above) change following regulatory intervention (including ECNs and ABTNs from 15 February 2020)? - What information did the MNOs provide to customers about the services for which the customer was paying through the continuing periodic charge after the Minimum Term? *Temporal scope: from 15 February 2020 to date*	- Documents concerning the information the Defendants considered ought to be provided to CHA customers at or shortly before expiry of the Minimum Term. - Datasets (including Excel spreadsheets and any associated analyses of such datasets) of how customers responded to those notifications, including records of how many customers switched, re-contracted, moved to a SIM-only tariff, or remained on their existing CHA Contracts beyond the Minimum Term. [Defendants: The Defendants could not accept the proposed disclosure categories as drafted. Firstly, they differ from the types of documents sought under Issue 16 (with no obvious justification, in circumstances where the only difference between Issue 16 and 17 is the timeframe of the enquiry). Secondly, they differ from the types of documents sought under Issue 24 which deals with transparency under the sub-heading of *"Abuse"* (again, with no obvious justification on the face of the pleading).] [The CR: The CR has proposed amendments to Issues 16, 17 and 24 so that the wording of the issues is more closely aligned, but given the particular context in which each issue arises, the CR maintains that the different focus of the categories of disclosure which are responsive to those issues is appropriate.]	- ACPCF §§31, 34(4); - VODAFONE-Def §50(c); - THREE-Def §50(c); - O2-Def §§24(2)–(3), 60(11)–(12); - BT-EE-Def §49(b); - O2-Rep §§9(3)–(4), 9(6); - EE-Rep §24.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
DOMINANCE			
18	**Dominance in each ILM** If the appropriate market is an ILM, does each MNO hold, or has each MNO held, a monopoly or substantial market power over its own customers on CHA Contracts who are beyond the Minimum Term? What is the nature and extent of competitive constraints on price and non-price parameters, including constraints from other MNOs, MVNOs, and independent/indirect retailers? *Temporal scope: from 1 October 2013 to date*	- Documents that directly or indirectly consider or discuss market shares, the stability of market shares, and/or market concentration for each of CHA Contracts before Minimum Term, CHA Contracts after Minimum Term, CHA Contracts overall, Split Contracts, SIM Only Contracts, and UK mobile telecommunications services including but not limited to any data sets on aggregate volume and value of sales (and including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded). - Market share analyses acquired from any third-party sources (including PDFs, Word documents, and any other document types in which external strategic analyses are recorded). - Documents that describe or consider the factors that influence the competitive dynamics among the players in the relevant market such as price, network quality (including speed, coverage and, especially, reliability), the Handsets offered and branding, and rates of switching (both internal and external) (all including excels, PDFs and any other document types in which data sets are recorded). - Documents concerning the nature and extent of competitive constraints across MNOs, including internal assessments of the risk of losing customers generally and, in particular, customers who remain on CHA Contracts beyond the Minimum Term. - Documents concerning competition for customers at the point of initial purchase, including point-of-sale pricing and propositions, tariff launch and approval materials, acquisition-stage competitive benchmarking, marketing plans for new CHA Customers, the introduction of Split Contracts and any below-cost sales of CHA Contracts. - Documents concerning competition for customers at, shortly before and shortly after expiry of the Minimum Term, including retention and win-back programmes, end-of-term contact policies and communications, campaign and send records, switching data and any below-cost sales of CHA Contracts. - To the extent not provided under paragraph 3 of the order made on 1 July 2026, price and product type/characteristics data and the datasets used by Ofcom for analyses of CHA Contract prices and SIM Only prices. [Defendants: The Defendants could not accept these proposed categories as drafted. The Defendants have initial concerns at the breadth with which some of these proposed categories are expressed. For example, the first category would capture any documents which "*directly or indirectly consider or discuss*" market shares, market stability and/or market concentration. It is not clear why the CR considers documents which "*indirectly*" consider these topics are relevant and proportionate. The distinction between documents which "*consider*" a topic versus those which "*discuss*" a topic is also unclear. There is a high degree of duplication between the categories proposed under this Issue and those proposed under others. Compare, for example, "*Documents concerning the nature and extent of competitive constraints across MNOs*" under this Issue with "*Documents assessing the competitive constraint imposed by existing or potential*	- ACPCF §§41(1), 42; - VODAFONE-Re-Amended Def §39; - THREE-Re-Amended Def §40; - O2-Amended Def §52(2)(a)-(e); - BT-EE-Amended Def §40; - VODAFONE-Rep §22(1); - THREE-Rep §23(1); - O2-Rep §21(2); - EE-Rep §§8, 15; - Davis 1 §§19(a), 174, Section V.A.8.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
		competitors" under Issue 14. Where datasets are requested, the Defendants are content in principle to make enquiries as to the datasets available in due course, and the scope and proportionality of the requested datasets can then be considered in the light of what is available. Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate. The CR has also explained that 'indirect' evidence market shares would include evidence which does not expressly / directly refer to a Defendant's market share, but instead refers to evidence which goes to the calculation of market shares (e.g., the Defendant's volume or value of sales).]	
19	**Collective Dominance** If the appropriate market is wider than ILMs, are the MNOs collectively dominant in that market? Did the MNOs present themselves or act together as a collective entity on the Mobile Retail Market, including by adopting and maintaining a common policy and/or parallel practice of maintaining periodic charges for customers on CHA Contracts after expiry of the Minimum Term? *[Temporal scope: from 1 January 2013 to date]*	- Documents that describe or consider the factors that influence the competitive dynamics among the players on the market, including factors relevant to competition between the MNOs, including (i) commercial links between the MNOs and (ii) common strategic policies adopted by the MNOs from January 2013 onwards. - Documents that consider the entry and/or expansion of firms within candidate markets defined using each of CHA Contracts before Minimum Term, CHA Contracts after Minimum Term, CHA Contracts overall, Split Contracts, SIM Only Contracts, and UK mobile telecommunications services. - Internal strategy and pricing papers on CHA and Split Contracts and post-Minimum-Term charges, including documents showing when the relevant policy was adopted by each MNO and the commercial rationale for it (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded). - Documents comparing or aligning and monitoring policies with other MNOs in respect of customers on CHA Contracts. - Documents on regulatory responses in respect of CHA Contracts. - Documents on whether the MNOs applied a common policy to maintain periodic charges for CHA Contracts on expiry of the Minimum Term, including documents showing when the policy was adopted by each of the MNOs and the commercial rationale for such policy. [Defendants: The Defendants could not accept these proposed categories as drafted. The Defendants have initial concerns at the breadth of the categories. For example, it is not obvious why the CR ought to see "*Documents on regulatory responses in respect of CHA Contracts"* as opposed to simply "*Any regulatory responses in respect of CHA Contracts"*. There is also a high	- ACPCF §§41(2), 43-5; - VODAFONE-Re-Amended Def §§40-44 ; - THREE-Re-Amended Def §§41-43; - O2-Amended Def §§53-55; - BT-EE-Amended Def §§41-43; - Davis 1 §§13, 175-229.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
		degree of duplication between some of the categories proposed under this Issue and those proposed under other Issues (and where there are differences in drafting, for reasons which are unclear). For example, compare "*Documents that describe or consider the factors that influence the competitive dynamics among the players on the market"* under this Issue with "*Documents assessing the competitive constraint imposed by existing or potential competitors"* under Issue 14 or "*Documents concerning the nature and extent of competitive constraints across MNOs"* under Issue 18. Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
20.	*Airtours* condition 1: Transparency - whether the MNOs were able to identify and monitor the alleged common policy, including through publicly available tariffs, competitor monitoring, market intelligence and economic/network links (including what those links are, how they developed, what communications (written or otherwise) between the MNOs exist in relation to them, and whether any such communications refer to CHA Contracts and/or the common policy). *Temporal scope: from 1 January 2013 to date*	- Documents on the nature and extent of direct economic links between the MNOs, including any network-sharing and joint-venture agreements and governance documents (including board and committee minutes, PDFs, Word documents and any other document types in which such arrangements are recorded). - Documents recording the origin and development of any economic or network links between the MNOs. - Communications between the MNOs (or their personnel) concerning those links, including any references to CHA Contracts and/or the common policy (including emails, meeting notes or minutes, presentations and other document types in which such communications are recorded). - Documents evidencing whether any such communications refer to CHA Contracts and/or the common policy. - Documents on the implications of economic links and the ability for MNOs/MVNOs to act together independently of competitors. - Documents on the extent to which economic links provide the MNOs access to information due to their economic links. - Pricing intelligence reports and third-party tariff data. - Internal price trackers. - Documents evidencing information flows, competitive intelligence and market monitoring. - Documents concerning whether and how MNOs could and/or did monitor competitors' conduct in relation to CHA Contracts/other contract structures.	- ACPCF §§44(4), 45(1); - VODAFONE-Def §§43(a)-(b); - THREE-Def §§44(a)-(b); - O2-Def §§55(1)(c)(i)-(ii); - BT-EE-Def §43(d); - Davis 1 §§178-190, 229(a).

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
		[Defendants: The Defendants could not agree to the proposed categories as drafted. They are concerned by the breadth of these proposed categories. For example, the CR is proposing to seek disclosure of documents going to the nature, extent, origin and development of any economic or network link between the Defendants. Yet the only economic links pleaded by the CR concern network sharing agreements between the Defendants and the CR does not plead that those network sharing agreements are anti-competitive. Similarly, the CR is proposing to seek disclosure of all communications between the MNOs concerning a number of topics. Yet the CR does not plead any collusion between or involving the Defendants. Some of the issues are not properly anchored to CHA Contracts (e.g. "*Internal price trackers*"). Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: It is correct that the CR has not pleaded explicit collusion / coordination. But that is irrelevant. It is relevant and sufficient that he has pleaded collective dominance (i.e., tacit coordination) and it is on that pleading that these indicative categories of disclosure are properly based. The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
21.	*Airtours* condition 2: Internal stability - whether the alleged common policy was internally stable over time, including by reason of repeated interaction, incentives to maintain the policy, detection of deviation, deterrence/retaliation, and the MNOs' contention that their policies differed over time. *Temporal scope: from 1 January 2013 to date*	- Documents on competitive interactions between MNOs/MVNOs. - Documents on incentives to coordinate. - Documents specifically analysing whether repeated interaction or multi-market contact between the MNOs affected the stability of the alleged common policy. - Business cases, scenario analyses and pricing models concerning the MNOs' incentives to maintain or depart from the alleged common policy, including the potential short-term gains from departure and the longer-term consequences of competitive responses. - Documents concerning the detection of departures from the alleged common policy, anticipated competitor responses and any deterrence mechanisms, including documents considering whether differences between the MNOs' policies over time affected the internal stability of the alleged common policy. [Defendants: The Defendants could not agree to the proposed categories as drafted. They are concerned by the breadth of these proposed categories. For example, the CR is proposing to seek disclosure of all documents on "*competitive interactions between MNOs/MVNOs*" which could encompass large numbers of irrelevant documents. The Defendants repeat their concern about the drafting technique of referencing "*documents on*" a topic. Many of these categories may also	- ACPCF §§45(2)-(3); - VODAFONE-Def §§41(e), 44(a)-(e); - THREE-Def §§42(e), 45(a)-(e); - O2-Def §§53(1), 55(2)(c)(ii)-(v), 55(2)(d)(i); - BT-EE-Def §§43(a)-(b), 43(e)-(f); - Davis 1 §§191-212, 229(b).

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
		ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The Defendants' comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
22.	*Airtours* condition 3: External stability - whether the foreseeable reaction of current or future competitors, MVNOs and customers would jeopardise the alleged common policy, including by reason of entry/expansion and barriers to MNO/MVNO entry. *Temporal scope: from 1 January 2013 to date*	- Documents, including internal market-entry analyses, business plans and investment papers, concerning actual, potential and/or threatened MVNO entry/expansion to offer CHA Contracts (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded). - Documents on spectrum, network infrastructure, customer-acquisition costs and regulatory/licensing barriers. - Documents on the nature and extent of competitive constraints imposed by current or existing competitors and potential entrants in each candidate market, in relation to the focal and substitutable products. - Documents on the entry and/or expansion of firms within candidate markets. [Defendants: The Defendants could not agree to the proposed categories as drafted. They are concerned by the breadth of these proposed categories. The Defendants repeat their concerns about the drafting technique of referencing "*documents on*". There is a high degree of duplication between the proposed categories under this Issue and those under other Issues (with differences in drafting, for reasons which are unclear). For example, compare the third proposed category under this Issue with "*Documents assessing the competitive constraint imposed by existing or potential competitors, including their reputation, incentives or ability to disrupt prevailing market conditions through new technology, services or business models*" under Issue 14. Many of these categories are not properly anchored in CHA Contracts (e.g. "*Documents on spectrum…*"). Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- ACPCF §§44(1), 45(2)(c), 45(3); - VODAFONE-Def §§41(a), 44(c), 44(e); - THREE-Def §§42(a), 45(c), 45(e); - O2-Def §§54(1), 55(2)(d); - BT-EE-Def §§42(a), 43(c); - Davis 1 §§213-226, 229(c).

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
ABUSE			
23	**Alleged unfair terms: indefinite payment terms** Were the terms of CHA Contracts by which charges continued at the same rate after the expiry of the Minimum Term (the "**Post-MT Payment Terms**") unfair, contrary to section 18 of the CA98? In particular: - What is the purpose of the CHA Contract, and do the Post-MT Payment Terms have any link with it? - What alternatives to the Post-MT Payment Terms were available to class members? - Did the MNO monitor or otherwise keep track of those CHA Customers who continued to pay beyond the Minimum Term? - Did the MNOs carry out any internal analyses of those customers? - Did the MNOs consider communicating or actually communicate with those customers at certain intervals with further products and services? *Temporal scope: from 1 October 2013 to date*	- Documents on standard terms and contract-design. - Documents on renewal/continuation defaults and end-of-term contract treatment. - Documents on alternative tariff structures offered or considered. - Documents concerning customers' sensitivity to the length of the Minimum Term and the effects of changing it. - Documents concerning any legitimate purpose or commercial rationale relied upon for maintaining the CHA Contract price beyond the Minimum Term. [Defendants: The Defendants could not accept these proposed categories as drafted. Many are incredibly vaguely expressed (e.g. "*Documents on standard terms"*) and appear to be linked to the third sub-bullet, the relevance of which is not clear having regard to the CR's pleaded case. The final category is not defined in a neutral way given the reference to "*legitimate"* purpose or rationale. Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The Defendants' comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- ACPCF §§47(1), 49-51, 55–57; - VODAFONE-Re-Amended Def §§49-51, 55–57; - THREE-Re-Amended Def §§49-51, 55–57; - O2-Amended Def §§60-62, 65–67; - BT-EE-Amended Def §§48-49, 54–56; - VODAFONE-Rep §§25, 27–28, 35; - THREE-Rep §§25, 27–28, 35; - Davis 1 §§74, 238–242.
24	**Transparency** Did the MNOs act transparently in regard to the charges payable beyond the Minimum Term? - What information did the MNOs provide to customers at the point of sale of CHA contracts? - What facts, warnings and information did the MNOs provide to customers at inception, during, and beyond the Minimum Term? - What information did the MNOs provide about the availability and price of comparable SIM Only tariffs?	- End-of-term customer communications pre-February 2020 (letters, emails, SMS, bill messaging) and disclosures (FAQs, ECN/ABTN templates and implementation papers), with content, dates and coverage. - Internal policies and decisions on what customers were, or should be, told about the options available to them. [Defendants: Pending receipt of the CR's formal disclosure request in due course, the Defendants are content in principle with the first proposed category. The Defendants are also content in principle with the second proposed category subject, again to discussions in due course about the parameters of any searches for the same.]	- ACPCF §50 (and §§22–34); - VODAFONE-Re-Amended Def §50; - THREE-Re-Amended Def §50; - O2-Amended Def §§24, 61; - BT-EE-Amended Def §49; - VODAFONE-Rep §§25(2), 36(1)–(2), (9); - THREE-Rep §§25(2), 36(1)–(2), (9); - O2-Rep §33; - EE-Rep §37; - Davis 1 §§271–275.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
	- What information did the MNOs provide to customers about the services for which the customer was paying through the continuing periodic charge after the Minimum Term? - How did the information provided change following regulatory intervention (including ECNs and ABTNs from 15 February 2020)? *Temporal scope: from 1 October 2013 to date*		
25	**Excessiveness** Were the prices charged beyond the Minimum Term excessive? - What were each MNO's costs of, and returns earned from, supplying the products under CHA Contracts? - What were the common and specific costs of each product and service supplied under CHA Contracts, at inception and beyond the Minimum Term? - Were common costs allocated? If so, how was this done? How were specific costs determined? - What rate of return or profit margin did each MNO earn on supply of different products and services under CHA Contracts at inception and beyond the Minimum Term? *Temporal scope: from 1 October 2013 to date*	- Documents on the costs of supply, including cost accounting records, management accounts and statutory accounts for cross-checking. - Documents concerning cost-allocation methodologies, including the identification of costs directly or indirectly attributable to the products and services supplied under CHA Contracts. - Documents on Handset procurement, network and service costs, and on the cost-to-serve customers on CHA Contracts (including beyond the Minimum Term) as against comparable SIM Only Contracts. - Regulatory financial statements. - Profitability analyses and profitability benchmarking, including internal analyses of margins, benchmark margins and realised or required rates of return. - Documents analysing the value of beyond-Minimum-Term supply, including the cost and retail pricing of additional products, services and perks. - Accounting information on costs, returns and margins at the most granular level available. [Defendants: The Defendants could not accept these proposed categories as drafted. For example, the Defendants repeat their concern about the frequent use of the drafting technique of referencing "*Documents on*". The CR has not explained why all regulatory financial statements would be relevant and proportionate. Many of these categories may ultimately also require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The Defendants' comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- ACPCF §§52–54; - VODAFONE-Re-Amended Def §§49, 52–54; - THREE-Re-Amended Def §§52–54; - O2-Amended Def §§63–64; - BT-EE-Amended Def §§6(c), 9(a), 51–53; - VODAFONE-Rep §12(2)(b), §26; - THREE-Rep §13(2)(b), §26; - O2-Rep §24; - EE-Rep §25; - Davis 1 §§231–237 §§251–261; - Davis 2 §§62–94.
26	**Unfairness** Were the prices charged beyond the Minimum Term unfair in themselves and/or unfair when compared	- Documents assessing the fairness of charging CHA Contract prices beyond the Minimum Term, including internal and external communications.	- ACPCF §§47(2), 52-54; - VODAFONE-Re-Amended Def §§52-54;

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
	with competing products? In particular, to what extent do CHA Customers obtain distinct economic value (if any) that affects their willingness to pay for the products and services offered under CHA Contracts beyond the Minimum Term? *Temporal scope: from 1 October 2013 to date*	- Documents concerning marketing and campaigns addressing out-of-term pricing (including O2's "smartphone swindle" campaign) and each MNO's internal or external responses to competitors' campaigns. - Documents showing when (if at all) and why each MNO adopted different payment structures under CHA Contracts. - Documents on the internal rationale and strategy for out-of-term pricing. - Investment appraisals and documents evidencing any justification relied on for the prices charged beyond the Minimum Term. [Defendants: The Defendants could not accept these proposed categories as drafted. For example, the Defendants repeat their concern about the frequent use of the drafting technique of referencing "*Documents on"*. There is a high degree of duplication between the categories proposed under this Issue and those under others. For example, compare the third proposed category with those under Issue 5. The Defendants are also concerned that these requests are not sufficiently relevant to the issue of unfairness. Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- THREE-Re-Amended Def §§52-54 - O2-Amended Def §§63-64; - BT-EE-Amended Def §§6(f), 51-53; - VODAFONE-Rep §§22(4); 36 - THREE-Rep §26 - O2 Rep §24; - EE-Rep §25; - Davis 1 §§238-250;
27	**Supplementary Obligations** Did the practice of charging a price in excess of the SIM Only Price impose supplementary obligations on Relevant Customers that have or had no connection with the subject matter of CHA Contracts, contrary to section 18(2)(d) of the Act? a) What was the subject matter of CHA Contracts? b) What was the common commercial usage of CHA Contracts, and did the MNO's charging practices post-Minimum Term reflect it?	- Documents on the subject matter, structure and commercial usage of CHA Contracts, including any discussion of the commercial rationale or justification for maintaining or alternatively reducing the level of monthly payments after expiry of the Minimum Term. [Defendants: The Defendants could not accept these proposed categories as drafted. For example, the Defendants repeat their concern about the frequent use of the drafting technique of referencing "*Documents on"*. There is again a high degree of duplication with other Issues, with different drafting for reasons which are unclear (see e.g. the requests going to commercial rationale for out-of-term pricing under Issues 5, 19, 23 and 26). Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique'	- ACPCF §§58–59; - VODAFONE-Re-Amended Def §§58–59; - THREE-Re-Amended Def §58; - O2-Amended Def §§68–69; - BT-EE-Amended Def §57; - VODAFONE-Rep §29; - THREE-Rep §29; - EE-Rep §28; - O2-Rep §26.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
	Temporal scope: from 1 October 2013 to date	documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
28	**Duration** Is any abuse aggravated by its duration, by its continuation following regulatory intervention, or by a lack of transparency; and during what period(s) did any infringement subsist? - For how long did each MNO charge CHA Contract prices beyond the Minimum Term? - What was each MNO's awareness of, and response to, regulatory intervention and criticism? *Temporal scope: from 1 October 2013 to date*	- Documents evidencing decisions to maintain, or not to reduce, CHA Contract prices beyond the Minimum Term, and the commercial rationale for those decisions. - Documents concerning each MNO's awareness of, and responses to, regulatory intervention and criticism, including communications between the MNOs and Ofcom relevant to out-of-term pricing. [Defendants: The Defendants could not accept these proposed categories as drafted. For example, the Defendants repeat their concern about the frequent use of the drafting technique of referencing "*documents concerning*". Duplication is again an issue (see e.g. the request again for documents going to commercial rationale for out-of-term pricing). Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- ACPCF §§48, 51; - VODAFONE-Re-Amended Def §§49, 51; - THREE-Re-Amended Def §§49, 51; - O2-Amended Def §§60, 62; - BT-EE-Amended Def §48; - VODAFONE-Rep §§17, 25; - THREE-Rep §§18, 25; - O2-Rep §21.
LOSS AND QUANTUM			

29	**Loss and quantum**
	
	What loss (if any) was caused by the alleged abuses, and what is the quantum of any such loss?
	
	Temporal scope: from 1 October 2015 to date
		- Sales, contract and billing documents and datasets showing the volume and value of CHA Contracts sold by each MNO, including breakdowns by plan type, sales channel and whether sold directly or indirectly (including excels, CSV files, PDFs and any other document types in which data sets are recorded).
		- Customer account and billing documents and billing level transaction datasets showing:
		  - Sale volume and revenue data
		  - Customer level data (contract dates, tariffs, termination data, and multi-contract holdings)
			- ACPCF §§3, 29, 66–67, 84;
			- Davis 1 §§238–250, §§262–270, §§292-293, §§296–306, §§311, 316, §§356-357, Table 9 and Appendix E §§331–360;
			- Davis 2 §§7–43, 90–129, Appendix C;
			- VODAFONE-Re-Amended Def §§17(b), 31, 48, 61(b);

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
		- the extent to which CHA Customers continued making payments after expiry of the Minimum Term, including the number and type of contracts affected and the aggregate payments received by each MNO during the Relevant Period (including excels, PDFs and any other document types in which data sets are recorded). - Documents and datasets relating to business user breakdown of CHA contract customers - Pricing, product and reimbursement documents and datasets (including excels, CSV files, PDFs and any other document types in which data sets are recorded) relevant to any potential reductions or adjustments, including: - Prices for Airtime Only services, whether supplied separately or with other services; - Pricing and product characteristic documents and datasets relevant to split contracts; - Pricing and product datasets relevant to SIM-only contracts; - Upfront Handset payments; - The nature, and price or value of additional products, services and benefits; - Analysis of 'better off' customers; and - Any employer or third-party reimbursement. [The Defendants are content in principle to make enquiries as to the datasets available in due course, and the scope and proportionality of the requested datasets can then be considered in the light of what is available. They note that these proposed categories include data on contracts "*sold indirectly*" which they maintain are not within the scope of the claim as per the dispute on Issue 2.] [The CR: The CR notes the Defendants' comments. The CR maintains that indirect CHA Contracts are within the scope of the claim for the reasons set out in his submissions to the Tribunal.]	- THREE-Re-Amended Def §§18(b), 32, 61(b); - BT-EE-Amended Def §§6(c), 9(b)(ii), 63–64; - O2-Amended Def §§16, 18(1), 19(4), 20–23, 72(2)(c), 75–76; - VODAFONE-Rep §§12(2)(c), 22(4), 30(3)–(4); - EE-Rep §§30–31; - O2-Rep §27(3); - THREE-Rep §§23(4), 30(3)–(4).
30.	**Mitigation** Did class members fail to take reasonable steps to mitigate any loss? *Temporal scope: from 1 October 2013 to date*	Records of end-of-term customer contact programmes and offers; switching and termination process documentation; churn and retention data (as for the Loss issue). [The Defendants are content in principle to make enquiries as to the datasets available in due course, and the scope and proportionality of the requested datasets can then be considered in the light of what is available.]	- ACPCF §§50, 61; - VODAFONE-Re-Amended Def §§50(c), 61(a); - THREE-Re-Amended Def §§50(c), 61(a); - BT-EE-Amended Def §§9(b)(ii), 62(b); - O2-Amended Def §§19(4), 24, 60, 72(3); - EE-Rep §30; - VODAFONE-Rep §§25(2), 30(1); - THREE-Rep §§25(2), 30(1); - Davis 1 §§262–270, 271–275.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
LIMITATION			
31	**Deliberate concealment** Were facts relevant to the class members' rights of action deliberately concealed by the MNOs (section 32(1)(b) of the Limitation Act 1980)? - What facts (if any) were deliberately concealed by each of the MNOs from class members? - What, if anything, did each of the MNOs disclose to class members regarding the services for which the class member was paying through the continuing periodic charge after the Minimum Term under the class member's CHA Contract? - What, if anything, did the Defendants disclose to class members about the availability of alternative contracts to the class member's continuing CHA Contract (e.g., contracts for airtime services only) and the price for such alternative contracts in comparison with the continuing periodic charge payable after Minimum Term under the class member's CHA Contract? *Temporal scope: from 1 January 2013 to date*	- Documents comprising customer-facing communications at and after the expiry of the Minimum Term (including letters, emails, SMS and bill messaging). - Documents on internal policies governing end-of-term communications, including decisions not to inform customers of the continuing Handset charge or of cheaper SIM Only options. [Pending receipt of the CR's formal disclosure request in due course, the Defendants are content in principle with the first proposed category provided that what is intended are communications anchored to CHA Contracts, and subject to possible discussions about proportionate sampling in due course. There also seems to be no purpose served by the words "*Documents comprising…*". The Defendants could not accept the second proposed category as drafted. The drafting technique of requesting "*documents on*" policies and decision – as opposed to documents recording those policies or decisions – means that this category is currently very broadly formulated. This category may ultimately also require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The Defendants' comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	- ACPCF §50; - VODAFONE-Re-Amended Def §§50, 67; - THREE-Re-Amended Def §§50, 67; - O2-Amended Def §§61, 83; - BT-EE-Amended Def §§49, 68; - VODAFONE-Rep §36(1)–(2); - THREE-Rep §36(1)–(2); - O2-Rep §33; - EE-Rep §37.
32	**Deliberate breach** Did the MNOs deliberately commit the breaches of duty alleged in the Claim Form in circumstances in which it was unlikely to be discovered for some time (section 32(2) of the Limitation Act 1980)? *Temporal scope: from 1 January 2013 to date*	- Documents on the commercial rationale for the payment structures of CHA Contracts from 2013 onwards. - Documents evidencing each MNO's awareness of the continuing Handset charge and of the fairness or lawfulness of out-of-term pricing, including board papers and responses to regulatory intervention. [Defendants: The Defendants could not accept these proposed categories as drafted. The Defendants repeat their concern about the drafting technique of referencing "*documents on*". Again, there is duplication with the many other proposed categories concerning commercial rationale for CHA Contract payment structured identified above. The second category is drafted in	- VODAFONE-Rep §36(8)–(9); - THREE-Rep §36(8)–(9); - O2-Rep §33; - EE-Rep §37.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
		such a way as to be liable to capture privileged documents. Many of these categories may also ultimately require keyword searches – the parameters and proportionality of any proposed searches will need to be considered in due course.] [The CR: The CR has previously explained that, while there may be some overlap between documents responsive to different issues, it is anticipated that each issue will return 'unique' documents responsive only to that issue; and that no document need be provided more than once (i.e., any duplication can be addressed by running de-duplication processes across the responsive dataset before production). The Defendants' other comments are noted. As explained in correspondence, these indicative categories of disclosure will be reviewed and refined as necessary in due course to ensure that the requests for disclosure are appropriately focused and proportionate.]	
33	**Discovery of concealed facts** If facts were concealed, could class members with reasonable diligence have discovered the concealed facts, and/or that they had a worthwhile claim, before 28 November 2017 (or any other material date)? - Did any of the MNOs provide any Relevant Customer with information that they had previously deliberately concealed? - If so, when did any of the MNOs provide any such information and by what means? - Was such information otherwise discoverable with reasonable diligence and by what means? *Temporal scope: from 1 January 2013 to date*	- Documents comprising public-domain and customer-facing materials by which the concealed facts are said to have been discoverable, including regulatory publications and each MNO's submissions and responses to them. - Documents recording when and by what means any MNO provided Relevant Customers with information previously withheld. [Defendants: In principle, the Defendants have no objections to these categories subject to possible discussions about proportionate sampling in due course.]	- VODAFONE-Re-Amended Def §67; - THREE-Re-Amended Def §67; - O2-Amended Def §§83–84; - BT-EE-Amended Def §§68–69; - VODAFONE-Rep §36(3)–(7); - THREE-Rep §36(3)–(7); - O2-Rep §33; - EE-Rep §37.
MERGER BETWEEN VODAFONE AND THREE			
34	**Ownership and control of Vodafone Limited and Hutchison 3G UK Limited ("Three UK")** Once the merger is complete, will Vodafone Group Plc own all shares in VodafoneThree Holdings Limited? If not, what will the ownership structure be? *Temporal scope: from the date the merger was announced on 14 June 2023*	- Documents recording the ownership and control of VodafoneThree Holdings Limited following completion of the merger.	- ACPCF §8.

	ISSUE	CATEGORIES OF DOCUMENTS (WHERE KNOWN)	PLEADING AND EXPERT REPORT REFERENCES
35	**Economic links** To the extent not addressed in row 20 above, what are the economic links between VodafoneThree Holdings Limited and Vodafone Group Plc, Vodafone Limited, and Three UK? *Temporal scope: from the date the merger was announced on 14 June 2023*	- Documents showing the economic links between VodafoneThree Holdings Limited and Vodafone Group Plc, Vodafone Limited, and Three UK, including - Corporate ownership and governance documents, including group structure charts, shareholder records, constitutional documents, board materials and director appointment records. - Intra-group financial and operational documents, including funding arrangements, intercompany agreements, shared-services arrangements, management reporting and cost-allocation records. - Transaction, regulatory and public documents describing the relationships between the entities, including merger and restructuring documents, regulatory submissions, Companies House filings, annual reports and investor materials.	- ACPCF §8.
36	**Economic activities** What are the economic activities of each of VodafoneThree Holdings Limited, Vodafone Group Plc, Vodafone Limited, and Three UK? *Temporal scope: from the date the merger was announced on 14 June 2023*	- Documents showing the respective economic activities of each of VodafoneThree Holdings Limited, Vodafone Group Plc, Vodafone Limited, and Three UK, including corporate governance documents, shareholder records, constitutional documents, board materials and other regulatory documents.	- ACPCF §8.
37	**Trading status** What is the current and anticipated trading status of Three UK? *Temporal scope: from the date the merger was announced on 14 June 2023*	- Documents showing the current and intended trading status of Three UK, including regulatory submissions, Companies House filings, annual reports and investor materials, and internal strategy documents (including board minutes, PDFs, Word documents, and any other document types in which internal strategic analyses are recorded).	- ACPCF §8.